*State of Iowa*

# Iowa Administrative Code Supplement

Biweekly
June 30, 1999


**KATHLEEN K. BATES**
ADMINISTRATIVE CODE EDITOR

**ROSEMARY DRAKE**
DEPUTY EDITOR

---

PUBLISHED BY THE
STATE OF IOWA
UNDER AUTHORITY OF IOWA CODE SECTION 17A.6

The Iowa Administrative Code Supplement is published biweekly pursuant to Iowa Code section 17A.6. The Supplement contains replacement pages to be inserted in the loose-leaf Iowa Administrative Code (IAC) according to instructions included with each Supplement. The replacement pages incorporate rule changes which have been adopted by the agencies and filed with the Administrative Rules Coordinator as provided in Iowa Code sections 7.17 and 17A.4 to 17A.6. To determine the specific changes in the rules, refer to the Iowa Administrative Bulletin bearing the same publication date.

In addition to the changes adopted by agencies, the replacement pages may reflect objection to a rule or a portion of a rule filed by the Administrative Rules Review Committee (ARRC), the Governor, or the Attorney General pursuant to Iowa Code section 17A.4(4); an effective date delay imposed by the ARRC pursuant to section 17A.4(5) or 17A.8(9); rescission of a rule by the Governor pursuant to section 17A.4(6); or nullification of a rule by the General Assembly pursuant to Article III, section 40, of the Constitution of the State of Iowa.

The Supplement may also contain replacement pages for the IAC Index and for the preliminary sections of the IAC: General Information about the IAC, Chapter 17A of the Code of Iowa, Style and Format of Rules, Table of Rules Implementing Statutes, and Uniform Rules on Agency Procedure.

# INSTRUCTIONS

FOR

Updating Iowa Administrative Code
with Biweekly Supplement

NOTE: Please review the "Preface" for both the Iowa Administrative Code and Biweekly Supplement and follow carefully the updating instructions.

The boldface entries in the left-hand column of the updating instructions correspond to the tab sections in the IAC Binders.

Obsolete pages of IAC are listed in the column headed "Remove Old Pages." New and replacement pages in this Supplement are listed in the column headed "Insert New Pages." It is important to follow instructions in both columns.

**Editor's telephone: (515)281-3355 or (515)281-8157**
**Fax: (515)281-4424**

## UPDATING INSTRUCTIONS
## June 30, 1999, Biweekly Supplement

[Previous Supplement dated 6/16/99]

IOWA ADMINISTRATIVE CODE

| | Remove Old Pages* | Insert New Pages |
|---|---|---|
| **AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]** | Analysis, p. 5, 6<br>Ch 47, p. 1—Ch 48, p. 1 | Analysis, p. 5, 6<br>Ch 47, p. 1—Ch 49, p. 3 |
| **Libraries and Information Services Division[286]** | Analysis, p. 1<br>Ch 3, p. 1—Ch 3, p. 4 | Analysis, p. 1<br>Ch 3, p. 1—Ch 3, p. 5 |
| **ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]** | Ch 4, p. 1, 2<br>Ch 4, p. 29, 30<br>Ch 4, p. 39, 40 | Ch 4, p. 1—Ch 4, p. 2a<br>Ch 4, p. 29, 30<br>Ch 4, p. 39, 40 |
| **HUMAN SERVICES DEPARTMENT[441]** | Analysis, p. 5—Analysis, p. 8<br>Analysis, p. 17, 18<br>Analysis, p. 23, 24<br>Analysis, p. 27, 28<br>Ch 40, p. 5, 6<br>(Do not remove p. 6a)<br>Ch 40, p. 7—Ch 40, p. 10<br>Ch 41, p. 17, 18 | Analysis, p. 5—Analysis, p. 8<br>Analysis, p. 17, 18<br>Analysis, p. 23, 24<br>Analysis, p. 27, 28<br>Ch 40, p. 5, 6<br><br>Ch 40, p. 7—Ch 40, p. 10<br>Ch 41, p. 17, 18 |

*It is recommended that "Old Pages" be retained indefinitely in a place of your choice. They may prove helpful in tracing the history of a rule.

| | Remove Old Pages* | Insert New Pages |
|---|---|---|
| **HUMAN SERVICES DEPARTMENT[441]** (Cont'd) | Ch 41, p. 20a—Ch 41, p. 30 | Ch 41, p. 20a—Ch 41, p. 30 |
| | Ch 41, p. 33—Ch 41, p. 38 | Ch 41, p. 33—Ch 41, p. 38 |
| | Ch 41, p. 41, 42 | Ch 41, p. 41, 42 |
| | Ch 41, p. 47 | Ch 41, p. 47 |
| | Ch 46, p. 1—Ch 46, p. 4 | Ch 46, p. 1—Ch 46, p. 4 |
| | Ch 46, p. 7 | Ch 46, p. 7 |
| | Ch 48, p. 1—Ch 49, p. 6 | Ch 48, p. 1—Ch 49, p. 6 |
| | Ch 73, p. 3, 4 | Ch 73, p. 3, 4 |
| | Ch 73, p. 17—Ch 75, p. 4 | Ch 73, p. 17—Ch 75, p. 4 |
| | Ch 75, p. 7, 8 | Ch 75, p. 7, 8 |
| | (Do not remove p. 8a) | |
| | Ch 75, p. 11, 12 | Ch 75, p. 11, 12 |
| | Ch 75, p. 31—Ch 75, p. 32b | Ch 75, p. 31—Ch 75, p. 32b |
| | Ch 75, p. 59—Ch 75, p. 62 | Ch 75, p. 59—Ch 75, p. 62 |
| | Ch 75, p. 65—Ch 75, p. 68 | Ch 75, p. 65—Ch 75, p. 68 |
| | Ch 75, p. 71—Ch 75, p. 76 | Ch 75, p. 71—Ch 75, p. 76 |
| | Ch 75, p. 78a—Ch 75, p. 82 | Ch 75, p. 78a—Ch 75, p. 82 |
| | Ch 75, p. 91, 92 | Ch 75, p. 91, 92 |
| | Ch 76, p. 3, 4 | Ch 76, p. 3, 4 |
| | Ch 76, p. 13, 14 | Ch 76, p. 13, 14 |
| | Ch 78, p. 3—Ch 78, p. 6 | Ch 78, p. 3—Ch 78, p. 6b |
| | Ch 78, p. 69—Ch 78, p. 72 | Ch 78, p. 69—Ch 78, p. 72b |
| | Ch 78, p. 131—Ch 79, p. 14 | Ch 78, p. 131—Ch 79, p. 14 |
| | Ch 79, p. 29, 30 | Ch 79, p. 29, 30 |
| | Ch 79, p. 51, 52 | Ch 79, p. 51, 52 |
| | Ch 79, p. 61, 62 | Ch 79, p. 61, 62 |
| | Ch 81, p. 13, 14 | Ch 81, p. 13, 14 |
| | Ch 81, p. 71 | Ch 81, p. 71 |
| | Ch 83, p. 1, 2 | Ch 83, p. 1, 2 |
| | Ch 83, p. 41, 42 | Ch 83, p. 41, 42 |
| | Ch 93, p. 5—Ch 93, p. 10 | Ch 93, p. 5—Ch 93, p. 10 |
| | Ch 93, p. 15, 16 | Ch 93, p. 15, 16 |
| | Ch 93, p. 21, 22 | Ch 93, p. 21, 22 |
| | Ch 93, p. 34a | Ch 93, p. 34a |
| | Ch 93, p. 43—Ch 93, p. 45 | Ch 93, p. 43—Ch 93, p. 45 |
| | Ch 130, p. 1—Ch 130, p. 12 | Ch 130, p. 1—Ch 130, p. 13 |
| | Ch 150, p. 11—Ch 150, p. 14 | Ch 150, p. 11—Ch 150, p. 14 |
| | Ch 150, p. 21, 22 | Ch 150, p. 21, 22 |
| | Ch 150, p. 31—Ch 150, p. 36 | Ch 150, p. 31—Ch 150, p. 36 |
| | Ch 156, p. 3—Ch 156, p. 6 | Ch 156, p. 3—Ch 156, p. 6 |
| | Ch 156, p. 19, 20 | Ch 156, p. 19, 20 |
| | Ch 169, p. 1—Ch 170, p. 8 | Ch 169, p. 1—Ch 170, p. 9 |
| | Ch 185, p. 39, 40 | Ch 185, p. 39, 40 |
| | Ch 185, p. 53, 54 | Ch 185, p. 53, 54 |
| | Ch 185, p. 57, 58 | Ch 185, p. 57, 58 |
| | Ch 185, p. 61, 62 | Ch 185, p. 61, 62 |
| | Ch 201, p. 5—Ch 201, p. 7 | Ch 201, p. 5—Ch 201, p. 7 |

*It is recommended that "Old Pages" be retained indefinitely in a place of your choice. They may prove helpful in tracing the history of a rule.

| | Remove Old Pages* | Insert New Pages |
|---|---|---|
| **State Public Defender[493]** | Analysis, p. 1 | Analysis, p. 1, 2 |
| | Ch 10, p. 5—Ch 13, p. 6 | Ch 10, p. 5—Ch 13, p. 3 |
| **PERSONNEL DEPARTMENT[581]** | Analysis, p. 3, 4 | Analysis, p. 3, 4 |
| | Ch 21, p. 5, 6 | Ch 21, p. 5—Ch 21, p. 6a |
| | Ch 21, p. 11—Ch 21, p. 16 | Ch 21, p. 11—Ch 21, p. 16b |
| | Ch 21, p. 31, 32 | Ch 21, p. 31, 32 |
| | Ch 21, p. 39, 40 | Ch 21, p. 39—Ch 21, p. 40a |
| | Ch 21, p. 45—Ch 21, p. 48 | Ch 21, p. 45—Ch 21, p. 49 |
| **PUBLIC HEALTH DEPARTMENT[641]** | Analysis, p. 15, 16 | Analysis, p. 15, 16 |
| | Ch 121, p. 1 | Ch 121, p. 1—Ch 126, p. 2 |
| **Professional Licensure Division[645]** | Analysis, p. 5—Analysis, p. 12 | Analysis, p. 5—Analysis, p. 12 |
| | Analysis, p. 15, 16 | Analysis, p. 15, 16 |
| | Ch 80, p. 7—Ch 91, p. 1 | Ch 80, p. 7—Ch 80, p. 12 |
| | Ch 101, p. 9—Ch 101, p. 12 | Ch 101, p. 9—Ch 101, p. 12 |
| | Ch 101, p. 15—Ch 109, p. 1 | Ch 101, p. 15, 16 |
| | Ch 141, p. 7—Ch 141, p. 12 | Ch 141, p. 7, 8 |
| | Ch 143, p. 1—Ch 149, p. 1 | Ch 143, p. 1—Ch 143, p. 6 |
| | Ch 200, p. 9—Ch 200, p. 18 | Ch 200, p. 9—Ch 200, p. 15 |
| | Ch 201, p. 9—Ch 201, p. 16 | Ch 201, p. 9—Ch 201, p. 13 |
| | Ch 202, p. 7—Ch 209, p. 1 | Ch 202, p. 7—Ch 202, p. 12 |
| | Ch 301, p. 5—Ch 309, p. 1 | Ch 301, p. 5—Ch 302, p. 3 |
| **SECRETARY OF STATE[721]** | Analysis, p. 3, 4 | Analysis, p. 3, 4 |
| | Ch 22, p. 1, 2 | Ch 22, p. 1, 2 |
| | Ch 22, p. 11, 12 | Ch 22, p. 11—Ch 22, p. 12b |
| | Ch 22, p. 29—Ch 22, p. 36 | Ch 22, p. 29—Ch 22, p. 40 |
| **Index Volume** | "A" Tab, p. 21—42 | "A" Tab, p. 21—42 |

*It is recommended that "Old Pages" be retained indefinitely in a place of your choice. They may prove helpful in tracing the history of a rule.

45.37(206) Approval of use of inorganic arsenic formulation
45.38 to 45.44 Reserved
45.45(206) Ethylene dibromide (EDB) residue levels in food
45.46(206) Use of pesticide Command 6EC
45.47(206) Reporting of pesticide sales
45.48(206) Dealer license fees
45.49(206) Pesticide use recommendations
45.50(206) Notification requirements for urban pesticide applications
45.51(206) Restrictions on the distribution and use of pesticides containing the active ingredient atrazine or any combination of active ingredients including atrazine
45.52(206) Continuing instructional courses for pesticide applicator recertification

DIVISION II
45.53 to 45.99 Reserved

DIVISION III
CIVIL PENALTIES
45.100(206) Definitions
45.101(206) Commercial pesticide applicator peer review panel
45.102(206) Civil penalties—establishment, assessment, and collection
45.103(206) Review period
45.104(206) Review by peer review panel
45.105(206) Response by peer review panel

CHAPTER 46
CROP PESTS
46.1(177A) Nursery stock
46.2(177A) Hardy
46.3(177A) Person
46.4(177A) Nursery growers
46.5(177A) Nursery
46.6(177A) Nursery dealer
46.7(177A) Out-of-state nursery growers and nursery dealers
46.8(177A) Nursery inspection
46.9(177A) Nursery dealer certificate
46.10(177A) Proper facilities
46.11(177A) Storage and display
46.12(177A) Nursery stock viability qualifications
46.13(177A) Certificates
46.14(177A) Miscellaneous and service inspections
46.15(177A) Insect pests and diseases

CHAPTER 47
ORGANIC FOOD PRODUCTION
47.1(190B) Purpose
47.2(190B) Definitions and terms
47.3(190B) Standards
47.4(190B) Exceptions
47.5(190B) Treated seed, transplants and propagating parts
47.6(190B) Records
47.7(190B) Sworn statements
47.8(190B) Prohibitions
47.9(190B) Organic advisory committee

CHAPTER 48
PESTICIDE ADVISORY COMMITTEE
48.1(206) Function
48.2(206) Staff
48.3(206) Advisors
48.4(206) Meetings
48.5(206) Open records
48.6(206) Budget
48.7(206) Review of pesticide applicator instructional course and examination

CHAPTER 49
BULK DRY ANIMAL NUTRIENTS
49.1(200A) Definitions
49.2(200A) License
49.3(200A) Registration
49.4(200A) Additional plant elements
49.5(200A) Distribution statement
49.6(200A) Distribution reports
49.7(200A) Storage of bulk dry animal nutrients
49.8(200A) Manure management plans

CHAPTER 50
IOWA FARMERS MARKET/WOMEN INFANTS CHILDREN PROGRAM
50.1(159) Authority and scope
50.2(159) Severability
50.3(159) Program description and goals
50.4(159) Definitions

GENERAL PROVISIONS
50.5(159) Administration and agreements
50.6(159) Distribution of benefits
50.7(159) Recipient responsibilities
50.8(159) Farmers market authorization and priority
50.9(159) Vendor certification
50.10(159) Certified vendor obligations
50.11(159) Certified vendor noncompliance sanctions
50.12(159) Appeal
50.13(159) Deadlines

CHAPTERS 51 to 57
Reserved

CHAPTER 58
NOXIOUS WEEDS

58.1(317) Definition
58.2(317) Purple loosestrife
58.3(317) Records

CHAPTER 59
SORGHUM

59.1(189) Sorghum—labeling and sales

CHAPTER 60
POULTRY

60.1(168) Egg-type chickens, meat-type chickens, turkeys, domestic waterfowl, domestic game birds and exhibition poultry
60.2(168) License for dealers of baby chicks or domestic fowls
60.3(163) Turkeys

CHAPTER 61
DEAD ANIMAL DISPOSAL

61.1(167) Dead animal disposal—license
61.2(167) Animal disposal—persons defined
61.3(167) Disposing of dead animals by cooking
61.4(167) License fee
61.5(167) Certificate issuance
61.6(167) Filing certificate
61.7(167) License renewal
61.8 to 61.10 Reserved
61.11(167) Disposal plant plans
61.12(167) Disposal plant specifications
61.13 and 61.14 Reserved
61.15(167) Conveyances requirements
61.16(167) Disposal plant trucks
61.17(167) Disposal employees
61.18(167) Tarpaulins
61.19(167) Disposal vehicles—disinfection
61.20 to 61.22 Reserved
61.23(167) Rendering plant committee
61.24(167) Rendering plant—spraying
61.25(167) Penalty
61.26 and 61.27 Reserved
61.28(167) Anthrax
61.29(167) Anthrax—disposal
61.30(167) Hog-cholera—carcasses
61.31(167) Noncommunicable diseases—carcasses
61.32(167) Carcass disposal—streams
61.33(167) Improper disposal

CHAPTER 62
REGISTRATION OF IOWA-FOALED HORSES AND IOWA-WHELPED DOGS

62.1(99D) Definitions
62.2(99D) Iowa horse and dog breeders' fund
62.3(99D) Forms
62.4(99D) Disciplinary procedures
62.5 to 62.9 Reserved

THOROUGHBRED DIVISION

62.10(99D) Iowa thoroughbred stallion requirements
62.11(99D) Notification requirements
62.12(99D) Stallion qualification and application procedure
62.13(99D) Application information
62.14(99D) Breeding record—report of mares bred
62.15(99D) Iowa-foaled horses and brood mares
62.16(99D) Iowa-foaled horse status
62.17 to 62.19 Reserved

STANDARDBRED DIVISION

62.20(99D) Iowa standardbred stallion requirements
62.21(99D) Notification requirements
62.22(99D) Stallion qualification and application procedure
62.23(99D) Application information
62.24(99D) Breeding record—report of mares bred
62.25(99D) Iowa-foaled horses and brood mares
62.26(99D) Iowa-foaled horse status
62.27 to 62.29 Reserved

QUARTERHORSE DIVISION

62.30(99D) Iowa quarterhorse stallion requirements
62.31(99D) Notification requirements
62.32(99D) Stallion qualification and application procedure
62.33(99D) Application information
62.34(99D) Breeding record—report of mares bred
62.35(99D) Iowa-foaled horses and brood mares
62.36(99D) Iowa-foaled horse status
62.37 to 62.39 Reserved

GREYHOUND DOG DIVISION

62.40(99D) Iowa-whelped dog requirements
62.41(99D) Procedures for registration
62.42 Reserved
62.43(99D) Disciplinary procedures
62.44(99D) Access to records

# CHAPTER 47
# ORGANIC FOOD PRODUCTION

**21—47.1(190B) Purpose.** In enacting the organic food Act of 1988, the Iowa legislature has recognized the need for protection of farmers and consumers with regard to marketing of food products labeled "organic" in the state of Iowa. Standards relating to the use of descriptive terms to fairly identify such food products have been established. These standards will also facilitate the development of national and international markets for food grown by organic methods in this state.

The organic food Act of 1988 was intended to encourage and enable Iowans to produce for the organic market by setting attainable standards and by minimizing regulation activity by the state while still providing baseline protections for consumers.

The department recognizes that the organic food Act of 1988 is designed to establish a mechanism for producers to ease into organic food production over a three-year period. The Act recognizes and protects the role of independent certification in the production of such foods by requiring that the name of the certifier be disclosed on any organic label marked "certified" or "verified." Although the Act does not require that organic producers become certified, and these rules do not establish the department as a certifying organization, the department strongly encourages producers to seek certification from private certifying organizations. The department believes that private certification will enhance the quality of organically produced foods and promote interstate and international markets. Private certifying organizations are encouraged to contact the department and supply a summary of their certification requirements to enable the department to share this information with organic producers seeking certification.

The department notes that the Act clearly prohibits the deliberate use of synthetic chemicals in producing foods organically, but that it does not require that residue testing be done or provide that any specific level of residue is unacceptable. Therefore, the Act does not prevent sales of food as "organic" which contain residues of which the grower is innocently unaware. However, the department notes that all foods must meet EPA and USDA residue standards, and so consumers will still have the same level of protection against residues in foods labeled "organic" that they have with all foods.

The department notes that organic growers are generally striving to protect and improve the integrity of their products, and that voluntary testing can be an invaluable aid in that effort. The department recommends that producers endeavor, on a voluntary basis, to limit residues in their products to no more than 10 percent of the tolerances established by the United States Food and Drug Administration or Environmental Protection Agency.

**21—47.2(190B) Definitions and terms.** As used in this chapter the following definitions apply:

*"Advertise"* means to present a commercial message in any medium including, but not limited to: print, radio, television, sign, display, label, tag, or articulation.

*"Certify"* means to formally approve, for purposes of advertising, a given producer, or a given product made by a given producer, upon successful verification (see definition of "verification") by a certifying body, of compliance with the standards of the certifying body. "Certification" under these rules can only be conducted by an independent third party certifying body, that is, a person or entity other than a producer or purchaser of the food being certified.

*"Department"* means the department of agriculture and land stewardship.

*"Drug"* means an article intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in animals other than man and articles other than unmedicated feed intended to affect the structure or any function of an animal's body.

*"Fertilizer material"* means a substance containing nitrogen, phosphorus, potassium, or a recognized plant food nutrient, or a compound which is used primarily for its plant nutrient content or for compounding mixed fertilizers except unmanipulated animal and vegetable manures.

*"Food product"* means a product other than beef or pork capable of human consumption including, but not limited to: fish, poultry, lamb, chevon, domestic game, beefalo, buffalo, vegetables, fruit, berries, eggs, seeds, dairy or grain products, beverages, sorghum syrup, and any product composed of one or more of those items.

*"Horticultural oils"* means a highly refined paraffinic petroleum product made solely for use on plants as specific dosages to act as an insecticide or miticide.

*"Label"* means a commercial message in a printed medium which is affixed by any method to a receptacle including a container or package.

*"Natural organic fertilizer"* means materials derived from either plant or animal products containing one or more elements (other than carbon, hydrogen, and oxygen) which are essential for plant growth. These materials may be subjected to biological degradation processes under normal conditions of aging, rainfall, sun curing, air drying, composting, rotting, enzymatic or anaerobic or aerobic bacterial action, or any combination of these. These materials may not be mixed with synthetic materials or changed in any physical or chemical manner from their initial state except by physical manipulation such as drying, cooking, chopping, grinding, shredding, or pelleting.

*"Natural organic pesticide"* means a pesticide product that is formulated or comprised of naturally occurring substances including, but not limited to, plant or animal derivatives or microorganisms and has an oral LD50 toxicity of 5000 milligrams per kilogram or greater.

*"Organic food"* means a food product that satisfies the requirements of Iowa Code section 190B.2 and rule 47.3(190B).

*"Pesticide"* means a substance or mixture of substances intended for preventing, destroying, repelling, or mitigating a pest, and a substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant.

*"Plant amendment"* means a substance applied to plants or seeds which is intended to improve conditions which facilitate germination, growth, yield, product quality, reproduction, flavor, or other desirable characteristics of plants except commercial fertilizers, soil amendments, agricultural liming materials, animal and vegetable manures, and pesticides.

*"Processor"* means a person who processes or manufactures products containing ingredients that include a food product.

*"Produce"* means grow, raise, collect, or harvest a food product.

*"Producer"* means a person who grows, raises, collects, or harvests a food product.

*"Sale"* or *"sell"* means a commercial transfer or offer for sale and distribution in any manner.

*"Soap"* means fatty acids and their salts if the fatty acid occurs in nature.

*"Soil amendment"* means:

1. An aggregant, additive, or organic chemical substance,
2. A chemically or physically modified natural substance,
3. A naturally occurring substance, or
4. A manufacturing by-product, mixed or unmixed, which is represented as having a primary function of forming or stabilizing soil aggregants in soil to which it is to be applied and thereby improving the resistance of the soil to the slaking action of water, increasing its water and air permeability, improving the resistance of its surface to crusting, improving its ease of cultivation, or otherwise favorably modifying its structural or physical properties.

*"Synthetic"* includes, but is not limited to, a pesticide, fertilizer, drug, hormone, antibiotic, growth stimulant, arsenical, or other complex compound artificially produced usually by chemical synthesis of elements or simple compounds.

*"Vendor"* means a person including, but not limited to, a producer or processor who in the regular course of business sells food products.

*"Verification"* means a procedure by which a certifying body determines that foods represented as organic are in compliance with the certifier's standards through the use of questionnaires, affidavits, farm inspections, residue tests, record audits, or other procedures to comprehensively review the complete production, handling, and record-keeping systems which are utilized with regard to the food to be certified.

**21—47.3(190B) Standards.** For a food product to be considered organic, it must have been organically grown or produced or composed of ingredients that were all produced according to this rule. Organic food shall be harvested, cleaned, stored, transported, distributed, processed, and packaged without the use of artificial irradiation, synthetic pesticides, synthetic plant or soil amendments, or fertilizer materials except natural organic fertilizers or as specifically allowed in rule 47.4(190B) according to the following standards:

1. It shall contain no added artificial coloring, artificial flavoring, artificial preservative, or synthetic ingredient;

2. In the case of perennial crops, grown in soil or growth medium without the application of synthetic pesticides, synthetic soil and plant amendments, and synthetic fertilizer materials, except as specifically allowed in rule 47.4(190B) since July 1, 1988, except that after July 1, 1991, the soil must have been free of the application of a synthetic for three years before and throughout the entire growing and harvesting season of the crop.

3. In the case of annual crops and two-year crops, was grown in soil or growth medium without the application of synthetic pesticides, synthetic soil and plant amendments, and synthetic fertilizer materials, except as allowed in rule 47.4(190B) since July 1, 1988, except that after July 1, 1991, the soil must have been free of the application of a synthetic for three years before planting or transplanting and throughout the entire growing and harvesting of the crop.

4. In the case of meat, poultry, domesticated game, shell fish, other nonplant life, fish, milk, and eggs, provisions set out in subrules 47.3(1) to 47.3(3) shall be followed.

**47.3(1)** *Feed.*

*a.* Recommended.

(1) Feed and pasture raised according to Iowa organic standards and rules;

(2) Natural mineral and vitamin supplements;

(3) Salt from any source.

*b.* Permitted, to the extent that local organic grain is not available.

(1) At least 80 percent of the feed (weight) must be raised according to Iowa organic standards and rules;

(2) Whole grain and forage containing no postharvest additives or chemical processing (Iowa grown products preferred). "Whole grain" refers to grain mechanically treated or not but in any case containing the germ, bran and all other parts of the grain;

(3) Manufactured mineral and vitamin supplements.

*c.* Not permitted.

(1) Synthetic chemical added to feed;

(2) Synthetic hormones added to feed;

(3) Plastic pellets for roughage;

(4) Urea or manure refeeding;

(5) Antibiotics in the last 75 percent of normal finished weight;

(6) Milk from lactating mothers receiving antibiotics in the last 75 percent of finished weight of the offspring.

47.3(2) *Animal health.*

*a.* Recommended. Preventive health care through good farming practices including sanitation, pasture rotation, suitable shelter, space, light, and fresh air and water.

*b.* Permitted.

(1) Vaccinations;

(2) Probiotics (whey, lactobacillus, and colostrum);

(3) General, routine applications of natural pest controls, e.g., rock powders, diatomaceous earth, and herbs;

(4) Internal parasiticides for treatment of severe infection that cannot be treated another way, provided that the withdrawal period is doubled, or animals under 25 percent of finished weight;

(5) Topical iodine disinfectants.

*c.* Not permitted.

(1) Synthetic chemicals, drugs, etc. used to stimulate growth or production or induce tenderness.

(2) Failing to give synthetic medications or antibiotic treatments where needed for animal health. Treated animals or animal products must then be diverted to conventional markets.

(3) In the case of animals used for production of milk or eggs, no synthetic pesticide or drug shall be administered or introduced within 60 days before the production of the milk or eggs.

47.3(3) *Animal purchase and replacement.*

*a.* Recommended. Animals purchased from organic producers.

*b.* Permitted.

(1) Slaughter stock may be purchased from whatever source provided the animal has been raised and treated according to Iowa organic food standards law and rules;

(2) Breeding stock may be bought from whatever source provided the animal is not in the last third of gestation, unless it otherwise qualifies as organic under Iowa law and rules;

(3) In the last third of gestation, breeding stock may have been fed commercial feeds, and may have received antibiotics and vaccinations, but otherwise must meet organic standards and rules;

(4) Day-old poultry may be acquired from any source, regardless of whether synthetic chemicals have been utilized in producing such stock;

(5) Other than day-old chicks, animals for milk and egg production must have met the standards of subrules 47.3(1) and 47.3(2) for at least 60 days prior to selling the milk or eggs as organic, except as noted in 47.3(2)*"c"*;

(6) If a seller of animals for milk or egg production provides a sworn statement stating that the above standards have been met for 60 days or less immediately prior to sale of the animal, then the milk or eggs may be sold as organic by the purchaser as soon as a total of 60 consecutive days have passed during which the animal meets the above standards.

*c.* Not permitted. Purchase of animals not raised in accordance with 47.3(3)*"b."*

**47.3(4)** *Organic crops.* Organic crops shall be produced without the use of seeds that have been synthetically treated, unless untreated seeds are not generally available.

**47.3(5)** *Organic crops—storage.* Organic crops shall be stored in a regular, cold, or controlled atmosphere. If fumigation is needed, only diatomaceous earth or inert gases may be used.

**47.3(6)** *Guidance to organic producers.* To provide guidance to organic producers regarding the use of substances and practices not specifically identified in these rules, the department shall use as guidelines the permitted and prohibited substances and practices as identified by California Certified Organic Farmers and Organic Food Production Association of North America, and make recommendations regarding use to the producer.

**21—47.4(190B) Exceptions.** Exceptions to rule 47.3(190B) include:

1. Enzyme sources;
2. Cultures of living or killed microorganisms;
3. Bordeaux mixtures;
4. Elemental sulfur and lime sulfur;
5. Gypsum;
6. Diatomaceous earth;
7. Basic copper sulfate;
8. Horticultural oils;
9. Fish emulsion that is not synthetically produced;
10. Soap;
11. Naturally occurring mineral materials that are not chemically modified;
12. Botanically derived pesticides containing no other active pesticidal ingredient but which may contain synthetic compounds such as emulsifiers, synergists, and carriers;
13. Mechanical controls such as traps, repellent crops, vacuuming, water jets, physical barriers, sound. Traps containing pesticides not permitted by rule 47.3(190B) or 47.4(190B) must be specifically authorized and documented by the grower's certification organization, provided that their contents do not contaminate the environment; and
14. Irrigation is permitted from groundwater sources. Surface waters may not be used for irrigation, except those ponded waters which receive runoff solely from land that has been free of a synthetic applied within the last three years, or since July 1, 1988, whichever period is shorter.

**21—47.5(190B) Treated seed, transplants and propagating parts.** If an organic food producer is unable to locate organically produced and treated seed, transplants, or propagating parts, the producer may use other seed, transplants or propagating parts if the producer retains records showing that a bona fide effort was made to locate organically produced and treated seed, transplants, and propagating parts. Such records shall be maintained by the producer for three years after the crop is harvested, sold, or delivered, whichever occurs later.

**21—47.6(190B) Records.** Records required to be kept under Iowa Code chapter 190B shall be maintained in a location that is convenient and readily accessible for inspection purposes, preferably on the premises where the food products are grown, processed, manufactured, or sold.

**47.6(1)** Producer—records concerning food sold as organic. A producer who sells food from a crop which the producer has grown and which is identified as organic, organically grown, or by a derivative of the word "organic," shall accurately keep the following records for three years after the food is harvested, sold, and delivered by the producer, whichever occurs later.

*a.* Year and type of crop;

*b.* Location of the acreage used for growing that crop;

*c.* Additions made to the soil or applied to that crop;

*d.* Kind and amount of seed, transplants, or propagating parts; variety if any; the name and address of the seller and the date of purchase; description of any treatments, synthetic or organic, applied to the seed, transplants, or propagating parts;

*e.* For livestock, records of all feed rations, including supplements, and their sources. Sources of young stock, if purchased off-farm, breeding, medication, and veterinary care history must be recorded.

*f.* Quantity, date, and acreage harvested.

*g.* Purchaser(s) of each crop, identifying the products sold by the information described above, as well as by quantity sold and date(s) of delivery.

**47.6(2)** Producers—records concerning farm history. If no crop from a given plot grown in a particular year is sold or marketed as organic, a producer must keep records for that year, or years, if needed to corroborate the grower's sworn statements that a food product from a later crop was produced on soil that has been free of the application of a synthetic for the number of years required by Iowa Code section 190B.2, including the information described in 47.6(1)*"a"* to *"c."*

**47.6(3)** Processors and manufacturers. A person who processes or manufactures a food which is sold or identified as organic, organically grown, or by a derivative of the word "organic," shall keep accurate records of the ingredients of that food, the names and addresses of persons from whom the ingredients were purchased, the date and quantity of ingredients purchased, and copies of invoices. These records must be retained for three years after the food is sold and delivered. Sworn statements required by rule 47.7(190B) shall be retained for three years after the food is sold and delivered.

**47.6(4)** Vendors. A person who sells a food subject to subrule 47.6(1) or 47.6(3) shall keep accurate records of the names and addresses of persons from whom that food was purchased, the date and quantity of food purchased, and copies of invoices. These records must be retained for three years after the food is sold and delivered. Sworn statements required by rule 47.7(190B) shall be retained for three years after the food is sold and delivered.

**47.6(5)** Provision of information. A producer, processor, manufacturer, or vendor of food subject to subrules 47.6(1) to 47.6(4) shall provide the department, on demand, relevant information from the records required under this rule.

**47.6(6)** If both organic and conventional methods are used to produce, process or manufacture the same product, records shall demonstrate that there has been no possibility of interchange. Either no product of that type can be sold as organic, or the timing of harvest, processing, packaging and sale shall be such that neither handling nor storage coincides.

**21—47.7(190B) Sworn statements.**

**47.7(1)** *Sale as organic.* A producer, processor, manufacturer, or vendor shall not sell to a vendor a food product advertised as organic, organically produced, or by using a derivative of the term "organic," unless the producer, processor, or manufacturer provides a sworn statement prior to or at the time of sale or shipment that the food product satisfies the requirements of Iowa Code chapter 190B and these rules.

**47.7(2)** *Processors and manufacturers.* If a processor or manufacturer purchases or plans to purchase an organic food product from a certain supplier more than once in a given year, the processor or manufacturer may comply with subrule 47.7(1) by accepting a sworn statement from the supplier which states that all of the food product of a given description which the supplier will sell to that purchaser during the next year (or shorter time period) satisfies the requirements of Iowa Code chapter 190B and these rules. Processors and manufacturers must obtain sworn statements from each supplier of each organic ingredient.

**47.7(3)** *Wholesalers.* If a vendor purchases or plans to purchase an organic food product or products from a certain producer, manufacturer, processor, or vendor for resale more than once in a given year, the wholesaler may comply with subrule 47.7(1) by accepting a sworn statement from the supplier which states that all of the food products described therein which that supplier will sell to that purchaser during the next year (or shorter time period) satisfy the requirements of Iowa Code chapter 190B and these rules.

**47.7(4)** *Retailers.* If a vendor purchases or plans to purchase an organic food product or products from a certain producer, manufacturer, processor, wholesaler, or other vendor for sale directly to consumers more than once in a given year, the retailer may comply with subrule 47.7(1) by accepting a sworn statement from that supplier which states that all of the food products described therein which that supplier will sell to that purchaser during the next year (or shorter time period) satisfy the requirements of Iowa Code chapter 190B and these rules.

**47.7(5)** *Implementation.* Pending the implementation of national standards for organic food production, vendors may comply with 21—47.7(190B) by obtaining the sworn statements required herein. Mailing of notice of the requirements of 21—47.7(190B) to each one of a vendor's suppliers of organic foods no later than January 1 of each year shall be deemed to be sufficient good faith effort for the purposes of this rule, provided complete records of the mailing are maintained by the vendor.

**21—47.8(190B) Prohibitions.**

**47.8(1)** No claim or implication may be made in the identification, labeling, advertising, or promotion of a food product, including processed food products, that the food product is organic, organically grown, or by a derivative of the word "organic," unless the product, including all of its ingredients, conforms to the requirements of Iowa Code chapter 190B and Iowa Administrative Code 21—Chapter 47.

**47.8(2)** Food that contains one or more organic ingredients may contain an information statement on the label, such as: "Contains organic rye flour" in letters not to exceed one-half the height of the letters used in the product identity. The word "organic" also must precede the name of each organic ingredient identified in the list of ingredients.

**21—47.9(190B) Organic advisory committee.**

**47.9(1)** *Membership.* The advisory committee shall have nine members to be appointed by the secretary of agriculture. Membership shall consist of the following:

*a.* One representative of the Iowa department of agriculture and land stewardship.

*b.* One representative of Iowa state university extension service who is a specialist in organic or sustainable agriculture.

*c.* Three producers of organic products including grains, fruits, vegetables, livestock or textiles.

*d.* Three handlers of organic products including processors, distributors or retailers.

*e.* One consumer representing the general interests of the organic industry in Iowa.

**47.9(2)** *Function.* The committee shall provide advice to the secretary of agriculture regarding organic production regulations, both state and federal, and other matters of concern to the organic industry as determined by the committee.

**47.9(3)** *Administrative procedures.* The committee shall establish administrative procedures and shall elect officers to terms established by the committee. All members of the committee shall serve at the pleasure of the secretary.

**47.9(4)** *Compensation.* Members of the advisory committee shall be reimbursed for actual and necessary expenses incurred by them in the discharge of their official duties.

**47.9(5)** *Advisors.* The organic advisory committee may solicit input from advisors without restriction as determined by the committee.

**47.9(6)** *Staff.* Staff assistance is provided through the department of agriculture and land stewardship as designated by the secretary of agriculture.

**47.9(7)** *Open records.* All public records of the committee are available for public inspection during business hours. Requests to obtain records may be made by mail, telephone or in person to the secretary's office, department of agriculture and land stewardship. Records requiring more than five copies may be obtained upon payment of the actual cost for copying.

These rules are intended to implement Iowa Code chapter 190B.

[Filed 11/1/89, Notice 8/23/89—published 11/29/89, effective 1/3/90]
[Filed 3/25/91, Notice 1/23/91—published 4/17/91, effective 5/22/91]
[Filed 12/21/94, Notice 10/26/94—published 1/18/95, effective 2/22/95]

# CHAPTER 48
# PESTICIDE ADVISORY COMMITTEE

**21—48.1(206) Function.** The pesticide advisory committee was created by Iowa Code chapter 206 and is charged with the responsibility of assisting the secretary in obtaining scientific data and coordinating agricultural chemical regulatory, enforcement, research and educational functions of the state.

**48.1(1)** *Organization and operation location.* The pesticide advisory committee is located within the Department of Agriculture and Land Stewardship, Henry A. Wallace Building, Des Moines, Iowa 50319. The department's office hours are from 8 a.m. to 4:30 p.m., Monday through Friday.

**48.1(2)** *Membership.* The pesticide advisory committee consists of nine members as set forth in Iowa Code section 206.23.

**21—48.2(206) Staff.** Staff assistance is provided through the department of agriculture and land stewardship as designated by the secretary of agriculture.

**21—48.3(206) Advisors.** The pesticide advisory committee may solicit input from advisors without restriction as determined by the committee.

**21—48.4(206) Meetings.** The pesticide advisory committee meets annually to elect a chairperson but may meet at other times as directed by the secretary or designee. Meetings may be called by the chairperson or on request by four members of the committee.

All committee meetings shall comply with Iowa Code chapter 21. A quorum of two-thirds of the committee members must be present to transact business. Action by the committee requires a vote of a majority of those on the committee. Meetings follow Robert's Rules of Order. Minutes of each meeting are available from the Secretary of Agriculture, Department of Agriculture and Land Stewardship, Henry A. Wallace Building, Des Moines, Iowa 50319.

**21—48.5(206) Open records.** All public records of the committee are available for public inspection during business hours. Requests to obtain records may be made by mail, by telephone or in person to the secretary's office, department of agriculture and land stewardship. Minutes of the committee meetings may be obtained without charge. Other records requiring more than five copies may be obtained upon payment of the actual cost for copying.

**21—48.6(206) Budget.** The pesticide advisory committee shall submit an annual budget to the secretary of agriculture.

**21—48.7(206) Review of pesticide applicator instructional course and examination.** The pesticide advisory committee shall meet at least once annually to review pesticide applicator certification instructional courses and examinations. The purpose of the annual review is to discuss topics of current concern that may be incorporated in pesticide applicator instructional courses and appropriate examinations. The committee shall review and evaluate the various instructional programs recently conducted and recommend options to increase overall effectiveness.

These rules are intended to implement Iowa Code section 206.23.

[Filed 11/1/89, Notice 9/20/89—published 11/29/89, effective 1/3/90]
[Filed emergency 1/10/90—published 2/7/90, effective 1/10/90]
[Filed emergency 10/8/93—published 10/27/93, effective 10/8/93]
[Filed 4/20/94, Notice 10/27/93—published 5/11/94, effective 6/15/94]

# CHAPTER 49
# BULK DRY ANIMAL NUTRIENTS

**21—49.1(200A) Definitions.** When used in this chapter:

*"Bulk dry animal nutrient product"* or *"bulk product"* means an animal nutrient product delivered to a purchaser in bulk form to which a label cannot be attached.

*"County soil survey"* means a publication containing a survey of soils and topography of an Iowa county by the Iowa cooperative soil survey.

*"Department"* means the department of agriculture and land stewardship.

*"Distribute"* means to offer for sale, sell, hold out for sale, exchange, barter, supply or furnish a bulk dry animal nutrient product on a commercial basis.

*"Distributor"* means a person who distributes a bulk dry animal nutrient product.

*"Dry animal nutrient product"* means any unmanipulated animal manure composed primarily of animal excreta if all of the following apply:

1. The manure contains one or more recognized plant nutrients which are used for their plant nutrient content.
2. The manure promotes plant growth.
3. The manure does not flow perceptibly under pressure.
4. The manure is not capable of being transported through a mechanical pumping device designed to move a liquid.
5. The constituent molecules of the manure do not flow freely among themselves but do show the tendency to separate under stress.

*"Guaranteed analysis"* means the minimum percentage of plant nutrients claimed and reported to the department pursuant to Iowa Code section 200A.6.

*"Label"* means any written or printed material which accompanies bulk shipments.

*"Official sample"* means any sample of a bulk dry animal nutrient taken by the department, according to procedures established by the department consistent with this chapter.

*"Percent"* or *"percentage"* means percentage by weight.

*"Person"* means individual, partnership, association, firm or corporation.

*"Purchaser"* means a person to whom a dry bulk animal nutrient is distributed.

*"Ton"* means a net weight of 2,000 pounds avoirdupois.

**21—49.2(200A) License.** Any person who distributes bulk dry animal nutrients in Iowa must first obtain a license from the department and shall pay a $10 license fee for each place from which bulk dry animal nutrients are distributed. Such license fee shall be paid on July 1 of each year. Application for license shall be made on forms furnished by the department.

**21—49.3(200A) Registration.** Each bulk dry animal nutrient shall be registered before being distributed in this state. The application for registration shall be submitted to the department on forms furnished by the department and shall be accompanied by a label which contains information as provided in Iowa Code section 200A.6, subsection 2, paragraphs *"a"* and *"b."*

**21—49.4(200A) Additional plant elements.** Additional plant food nutrients, besides nitrogen, phosphorus and potassium, when mentioned in any form or manner, shall be registered and shall be guaranteed. Guarantees shall be made on the elemental basis. The minimum percentages which will be accepted for registration are as follows:

| Element | Percent |
|---|---|
| Calcium (Ca) | 1.00 |
| Magnesium (Mg) | 0.50 |
| Sulfur (S) | 1.00 |
| Boron (B) | 0.02 |
| Chlorine (Cl) | 0.10 |
| Cobalt (Co) | 0.0005 |
| Copper (Cu) | 0.05 |
| Iron (Fe) | 0.10 |
| Manganese (Mn) | 0.05 |
| Molybdenum (Mo) | 0.0005 |
| Sodium (Na) | 0.10 |
| Zinc (Zn) | 0.05 |

Guarantees or claims for the above-listed additional plant nutrients are the only ones which will be accepted. Proposed labels and directions for use shall be furnished with the application for registration. Any of the above-listed elements which are guaranteed shall appear in the order listed, immediately following guarantees for nitrogen, phosphorus and potassium. A warning statement is required on the label for any product which contains 0.03 or more boron in a water-soluble form or 0.001 percent or more of molybdenum. The statement shall carry the word "WARNING" in letters large enough to be conspicuous; it shall state the crops for which the bulk dry animal nutrient may be used and it shall state that use of the bulk dry animal nutrient on any other than those recommended may result in serious injury to the crops.

**21—49.5(200A) Distribution statement.** Any bulk dry animal nutrient distributed in this state must be accompanied by a form, furnished by the department, which contains all information required by Iowa Code section 200A.7. The distribution statement must be provided to the purchaser before possession of bulk dry animal nutrient is transferred to the purchaser and receipt of the distribution statement must be acknowledged by signature or initials of the purchaser. The distributor shall maintain a copy of the distribution statement for one year.

**21—49.6(200A) Distribution reports.** Any person required to be licensed to distribute bulk dry animal nutrients in this state shall file distribution reports on forms furnished by the department as required by Iowa Code section 200A.8.

**21—49.7(200A) Storage of bulk dry animal nutrients.** A distributor shall not store bulk dry animal nutrients in a manner which pollutes the waters of the state. Storage requirements include the following:

1. Bulk dry animal nutrients shall not be stored in a grassed waterway.
2. Bulk dry animal nutrients shall not be stored on ground with a slope of greater than class "B" as defined in the county soil survey.
3. Bulk dry animal nutrients shall not be stored within 200 feet of a shallow private water supply well or within 100 feet of a deep water supply well. Bulk dry animal nutrients shall not be stored within 500 feet of a surface intake, wellhead or cistern of agricultural drainage wells, known sinkholes or major water sources or within 200 feet of watercourses other than major water sources (excluding farm ponds, privately owned lakes or when a secondary containment barrier is provided). For purposes of this rule, terms used are considered to have the same meaning as defined in 567—65.1(455B).

**21—49.8(200A) Manure management plans.** Distributors of bulk dry animal nutrients who are confinement feeding operations must comply with rules 567—65.16(455B) and 65.17(455B) and 567—paragraph 65.3(3)*"g."* For the volume of bulk dry animal nutrients to be sold or removed from control of the distributor, the requirements of rules 567—65.16(455B) and 65.17(455B) and 567—paragraph 65.3(3)*"g"* shall be deemed to have been met when a distributor notifies in writing the department of natural resources.

These rules are intended to implement Iowa Code chapter 200A.

[Filed 6/10/99, Notice 2/10/99—published 6/30/99, effective 8/4/99]

# LIBRARIES AND INFORMATION SERVICES DIVISION[286]

[Prior to 6/26/91, see Library Department [560] Ch 1]
[Prior to 3/30/94, see Cultural Affairs Department[221], Library Division[224], Chs 1 and 6]


CHAPTER 1
ORGANIZATION AND OPERATION

1.1(256) Definitions
1.2 Reserved
1.3(256) Organization and operation
1.4(256) Information delivery
1.5(256) Access to library's collections
1.6(256) Collection policy of the library
1.7(256) Disposal of library materials

CHAPTER 2
PUBLIC RECORDS AND FAIR INFORMATION PRACTICES

2.1(17A,22) Definitions
2.3(17A,22) Requests for access to records
2.9(17A,22) Disclosures without the consent of the subject
2.10(17A,22) Routine use
2.11(17A,22) Consensual disclosure of confidential records
2.12(17A,22) Release to subject
2.13(17A,22) Availability of records
2.14(17A,22) Personally identifiable information
2.15(17A,22) Other groups of records
2.16(17A,22) Data processing systems
2.17(17A,22) Applicability

CHAPTER 3
STATEWIDE PROGRAMS AND AGREEMENTS

3.1(256) State of Iowa Libraries Online (SILO)
3.2(256) Enrich Iowa program
3.3(256) Open Access
3.4(256) Access Plus
3.5 Reserved
3.6(256) In Service to Iowa: Public Library Measures of Quality
3.7(256) Iowa Certification Program for Public Librarians
3.8(256) Summer library program
3.9(256) Iowa Depository for Iowa Publications Purpose

CHAPTER 4
ICN CLASSROOM POLICY

4.1(256) Definitions
4.2(256) Primary use
4.3(256) Library hours, access, and information
4.4(256) Charges and financial responsibility
4.5(256) ICN room requests and scheduling process
4.6(256) First time use and training
4.7(256) Accommodations for handicapped
4.8(256) Financial responsibility for damage
4.9(256) Food and nonalcoholic beverages
4.10(256) Smoking
4.11(256) Endorsement
4.12(256) Visitor parking
4.13(256) Copyrighted material

CHAPTER 5
Reserved

CHAPTER 6
LIBRARY SERVICES AND TECHNOLOGY ACT (LSTA) PROGRAM

6.1(256) Description
6.2(256) Advisory councils
6.3(256) Process

CHAPTER 7
INTERNET USE POLICY

7.1(256) Rights and responsibilities
7.2(256) Access to Internet computers
7.3(256) Costs
7.4(256) Internet services available
7.5(256) Downloading and saving files
7.6(256) Staff assistance

# CHAPTER 3
# STATEWIDE PROGRAMS AND AGREEMENTS

## BACKGROUND

The state library is charged with developing long-range plans for the continued improvement of library services in the state. The most recent long-range plans were entitled "Unified Plan for Library Service in Iowa" and the "LSTA Five-Year Plan." The major outcomes of these planning efforts include the maintenance of SILO, a voluntary certification program for public librarians, and the continued development of standards for public libraries which includes a voluntary accreditation program.

Based on existing programs and services, the current planning effort addresses the state library's role in promoting and developing library services in the state, coordinating interlibrary cooperation, and providing Iowans with access to the publications of state government. The state library's other roles, such as meeting the information needs of the three branches of state government and providing census, patent, legal and medical information, are not addressed in this document.

SEE: Unified Plan for Library Service in Iowa, 1994, and the LSTA Five-Year Plan. State Library of Iowa, 1998.

**286—3.1(256) State of Iowa Libraries Online (SILO).** Purpose is to provide electronic access to Iowa's library resources and to electronic information resources. Includes an electronic "card catalog" and associated electronic interlibrary loan system to facilitate the identifying and requesting of library materials among Iowa libraries. Delivers statewide library access to numerous citation and full text databases.

**286—3.2(256) Enrich Iowa program.**

3.2(1) *Purpose.* Enrich Iowa, a direct state aid program, provides incentives to improve library services and to reduce inequities among communities in the delivery of library services based on recognized and adopted performance measures. The funding is intended to supplement, not replace, local funding.

3.2(2) *Eligibility.*

*a.* To participate in the enrich Iowa program, an Iowa public library must:

(1) Be established by city ordinance or as a county library at least two years previous in accordance with Iowa Code chapter 336.

(2) Use the enrich Iowa funds to improve library services.

(3) Use program funds to supplement, not supplant, any other funding received by the library.

(4) Provide information for auditing purposes, if requested by the state library.

*b.* To remain eligible to participate after July 1, 2001, the library must:

(1) Meet all of the eligibility and reporting requirements outlined above.

(2) Participate in Open Access and Access Plus programs.

(3) Meet the standards requirements of Tier 1, 2, or 3.

SEE: Enrich Iowa: Fund Libraries. State Library of Iowa, September 1996.
In Service to Iowa: Public Library Measures of Quality. 3d ed. State Library, 1997.

**3.2(3)** *Reporting procedures.* All program participants shall submit the following to the state library:

*a.* A copy of the ordinance establishing the library or documentation of the establishment of the county library by December 15 of the first year of participation.

*b.* A status report, in the format prescribed by the state library, on local library use of enrich Iowa funds by December 15, 1999.

*c.* By July 31 following the end of the fiscal year, a final report on the use of enrich Iowa funds in the format prescribed by the state library. The report shall include a listing of program payments received and expenditures made for the fiscal year.

*d.* An accreditation report, in the prescribed format, as required on the three-year reporting cycle.

SEE: In Service to Iowa: Public Library Measures of Quality. 3d ed. State Library, 1997.

*e.* A completed annual survey, in the prescribed format, by the required date.

**3.2(4)** *Informal appeals.* Informal appeals shall be made on procedural grounds only. Such grounds include alleged conflicts of interest or procedures not uniformly applied to all public libraries.

**3.2(5)** *Informal appeal hearing.* A written request shall be sent to the state librarian. The hearing shall be held within 15 calendar days of the date of the request during regular business hours of the state library. The hearing shall be held before the state librarian or such members of a review board as the state librarian designates. The state librarian shall:

*a.* Notify the appellant as to the day, hour, and location of the hearing;

*b.* Inform the appellant of the right to submit any written documents regarding the application;

*c.* Inform the appellant that a spokesperson must be appointed if the appeal involves more than one person. The state librarian or designee shall direct questions only to the spokesperson during the hearing. Any other discussion or comments shall be reserved for a closed executive session. No indication of decision shall be given at the time of the hearing;

*d.* Notify the appellant in writing of the decision of the state librarian or designee within five working days of the hearing.

**3.2(6)** *Formal appeal.* A formal appeal of the decision of the state librarian or designee shall be made to the commission of libraries.

*a.* The appellant's argument shall contain:

(1) The facts of the appeal;

(2) An argument in favor of the appeal; and

(3) The remedy sought.

*b.* Appeals will be allowed on the procedural grounds that staff of the state library acted outside statutory authority, were influenced to act as a result of a conflict of interest, or acted in a biased or unfair manner.

*c.* The commission shall consider and rule on the appeal after receiving all documentation from the appellant and shall notify the appellant in writing of the decision within 30 calendar days. The decision of the commission is final except as provided for in Iowa Code sections 17A.19 and 17A.20.

**286—3.3(256) Open Access.** Purpose is to provide Iowa citizens with direct access to more library materials and information resources. It is a reciprocal borrowing program that enables users from participating libraries to directly check out materials from other participating libraries.

SEE: Open Access Program Letter of Agreement. State Library of Iowa.

**286—3.4(256) Access Plus.** Purpose is to provide Iowa citizens with equal access to library resources by encouraging and supporting multitype resource sharing. Access Plus subsidizes participating libraries for each interlibrary loan, from the first loan, made to an eligible Iowa library.

SEE: Access Plus Program Letter of Agreement. State Library of Iowa.

**286—3.5(256) Iowa Fax Network.** Rescinded IAB 12/16/98, effective 1/20/99.

**286—3.6(256) In Service to Iowa: Public Library Measures of Quality.** Purpose is to provide performance measures to encourage the ongoing development of quality public library service in the state. By identifying policies, service levels, role selection and output measures, consistency and quality in all aspects of public library service can be achieved.

SEE: In Service to Iowa: Public Library Measures of Quality. 3d ed. State Library of Iowa, 1997.

**286—3.7(256) Iowa Certification Program for Public Librarians.** Purpose is to improve library service in Iowa by encouraging public librarians to acquire, maintain and develop skills through basic and continuing education, by recognizing librarians who update skills, by improving the public image of librarians, and by providing guidelines for public library boards to use in developing hiring policies.

SEE: Iowa Certification Program for Public Libraries. State Library of Iowa, 1993.

**286—3.8(256) Summer library program.**

**3.8(1)** Purpose is to assist public libraries in planning summer reading programs by producing promotional and programming materials, locally adaptable, to help improve library service to youth in Iowa and to improve skills of librarians.

**3.8(2)** Procedures.

*a.* An advisory committee provides advice to the state library regarding this program.

*b.* Working with a multistate cooperative, the manual and promotional materials are developed around a theme.

*c.* Participating libraries may purchase theme materials (manuals, posters, bookmarks, and related materials).

*d.* The program is publicized and promoted through the state library's newsletter and through regional workshops each year.

**286—3.9(256) Iowa Depository for Iowa Publications Purpose.** The depository library center is established within the state library to serve as the central agency for the collection and distribution of publications issued by state agencies to depository libraries.

**3.9(1)** *Definitions.*

*"Core depository"* shall receive only those publications found on the periodically compiled core list.

*"Core list"* of Iowa state documents is a selected list intended to meet the basic document needs of libraries.

*"Depository library"* means a library designated for the deposit of state publications.

*"Depository library center"* shall be the headquarters for the state documents depository program and shall also be referred to as the "state documents center."

*"Full depository"* shall be a library receiving everything collected by the depository library center.

*"Permanent depository"* shall be a library receiving and permanently maintaining two copies of each state publication.

*"State agency"* means a legislative, executive, or judicial office of the state and all of its respective offices, departments, divisions, bureaus, boards, commissions, committees, and state institutions of higher education governed by the state board of regents.

*"State publications"* are defined as any multiply produced informational products or materials regardless of format, method of reproduction, or source, originating in or produced with the imprint of, by the authority of, or at the total or partial expense of, any state agency. The definition incorporates those publications that may or may not be financed by state funds but are released by private bodies such as research and consultant firms under contract with or supervision of any state agency. State information products specifically include, but are not limited to, public documents appearing as reports, directories, statistical compendiums, bibliographies, lists, state plans, statutes, codes, laws and bills, rules, regulations, transcripts of public hearings, journals, newsletters, bulletins, periodicals, books, pamphlets, brochures, charts, maps, surveys, other printed matter, audiovisual materials, microfilm, microfiche, and all electronic information sources in all electronic formats. State information products do not include correspondence and memoranda intended solely for internal use within the agency or between agencies, materials designated by law as being confidential, materials excluded from this definition by the department through the adoption and enforcement of rules, and materials determined by the depository library center staff to be exempt.

**3.9(2)** *Administration of the depository program.*

*a.* The state documents depository program shall be administered by the depository librarian under the direction of the state librarian.

*b.* A nine-member advisory council shall be organized to advise the state library regarding this program. The advisory council may be composed of members of state agencies, representatives of depository and nondepository libraries, and the general public. The council shall be appointed by the state librarian with the recommendation of the depository librarian.

*c.* The state library/depository library center shall serve as the last copy depository for predepository state information products and for those products never deposited with the center since its 1979 inception.

**3.9(3)** *State agency requirements.*

*a.* Upon issuance of a state publication a state agency shall deposit with the depository library center, at no cost to the center, 75 copies of the publication, or a lesser amount if specified by the center.

*b.* It shall be the responsibility of the issuing state agency to create duplicate copies of publications in limited supply to meet the minimal copy requirements of the depository library center as specified by the center.

**3.9(4)** *Designation of depositories.*

*a.* The state library and the University of Iowa shall be designated as the two permanent depositories for Iowa state publications.

*b.* The Library of Congress shall receive one copy of each state publication collected.

*c.* Depository status of additional libraries shall be determined by the state librarian upon written application by a library. A library may be designated as either a full depository or core depository based upon the judgment of the depository library center and the preference of the library.

*d.* Depository libraries may be selected on the basis of one or more of the following criteria:

(1) Geographic location consistent with a policy of distributing depositories so as to minimize the travel distance of a user.

(2) Demonstrated ability to handle the receipts desired based on size of collection, identified need of the library's clientele, and the availability of space, staff and equipment.

(3) Demonstrated need/value to state of placing depository collection in facility.

(4) Present federal depository status.

Upon approval of the application, a contract with the depository library shall be completed.

**3.9(5)** *Depository library requirements.*

*a.* The permanent depositories shall permanently maintain two copies of each publication. One copy shall be considered archival and will not circulate. The other copy shall be available for loan.

*b.* All publications received under this program by the full depository and core depository libraries shall be retained for a minimum period of three years unless a lesser retention period is designated for an item or items by the depository library center.

*c.* The depository agrees to make the documents available for free public use.

*d.* Materials missing from depository shipments shall be claimed from the depository library center within one month of receipt of the shipment. After that time, requests shall be made directly to the issuing agency or the state printer.

**3.9(6)** *Withdrawal of a library from the program.*

*a.* A full depository library may withdraw from the depository program by sending written notice to the depository library center 60 days prior to such withdrawal.

*b.* A core depository library may withdraw from this program by sending written notice to the depository library center.

*c.* A library's depository designation may be withdrawn for failure to conform to the terms of the contract.

*d.* Upon termination of the contract the depository documents become the property of the depository library center and must be returned to the center or to such other depositories as may be specified by the center.

These rules are intended to implement Iowa Code sections 256.50 to 256.55.

[Filed emergency 3/3/94—published 3/30/94, effective 3/30/94]
[Filed 5/6/94, Notice 3/30/94—published 5/25/94, effective 6/29/94]
[Filed 11/25/98, Notice 9/23/98—published 12/16/98, effective 1/20/99]
[Filed emergency 6/9/99—published 6/30/99, effective 6/9/99]

# CHAPTER 4
# CAMPAIGN DISCLOSURE PROCEDURES

[Prior to 9/9/87, Campaign Finance Disclosure[190] Ch 4]
[Prior to 3/30/94, Campaign Finance Disclosure Commission[121] Ch 4]

## DIVISION I
## ORGANIZATIONAL REQUIREMENTS

**351—4.1(56,68B) Requirement to file statement of organization (DR-1)—persons subject to requirements; financial thresholds; where to file; when due.**

**4.1(1)** *Persons subject to requirement.* Every committee shall file a statement of organization (Form DR-1) within ten days from the date of its organization. The forms shall be either typewritten or printed legibly in black ink.

*a.* *"Committee" defined.* A "committee" includes a "candidate's committee," which is the entity required to be created when a candidate has exceeded the $500 organizational threshold, even though the organization may consist only of the candidate. A "committee" also includes a "political committee," which is the entity required to be created when two or more individuals have exceeded the $500 organizational threshold for permanent or temporary political purposes.

*b.* *When organization occurs; financial thresholds.* At the latest, organization is construed to have occurred as of the date that the committee first exceeded $500 of financial activity in a calendar year in any of the following categories: contributions received (aggregate of monetary and in-kind contributions); expenditures made; or indebtedness incurred.

*c.* *Permanent organizations temporarily engaging in activity for political purposes.* The requirement to file the statement of organization applies to an entity which comes under the definition of a "political committee" because it is an association, lodge, society, cooperative, union, fraternity, sorority, educational institution, civic organization, labor organization, religious organization, professional organization or other permanent organization which temporarily engages in political activity by accepting contributions in excess of $500 in the aggregate, making expenditures in excess of $500 in the aggregate, or incurring indebtedness in excess of $500 in the aggregate in any one calendar year for the purpose of supporting or opposing the election of a candidate for public office, or for the purpose of supporting or opposing the passage of a ballot issue.

**4.1(2)** *Place of filing.*

*a.* *Board office.* Statements of organization for the following committees shall be filed with the board at its office, 514 E. Locust, Suite 104, Des Moines, Iowa 50309:

(1) Candidates' committees for elected state office (legislative or statewide);

(2) Political committees supporting or opposing the election of multiple candidates for elected state office (legislative or statewide), also referred to as "statewide PAC (political action committees)";

(3) State statutory political committees (state parties);

(4) Political committees supporting or opposing the passage of a statewide ballot issue.

*b.* *County commissioner of elections.* Statements of organization for the following committees shall be filed with the county commissioner (county auditor) responsible under Iowa Code section 47.2 for conducting the election at which an elected public office or ballot issue is voted upon:

(1) Candidate's committees for candidates seeking election to a public office at the county, school, city, township or other nonlegislative district level, also referred to as "county/local candidate's" committees.

(2) Political committees supporting or opposing the election of multiple candidates for elected county or local office, also referred to as "county PACs."

(3) County or city statutory political committees (central committees); however, the committee shall file a copy of the statement of organization with the board.

(4) Political committees supporting or opposing the passage of a county or local referendum, franchise, or other ballot issue, also referred to as a county or local "ballot issue (or franchise election) committee."

(5) Political committees other than central committees established to support a nonpartisan slate of specific municipal or school board candidates, also referred to as a "slate committee."

*c. Filing requirements for committees active at both the state and county/local level or active within multiple counties.*

(1) Political committees supporting or opposing the election of candidates both for state office and for county or local office shall file the statement of organization with the board.

(2) Political committees which support or oppose passage of a statewide ballot issue and one or more county/local ballot issues shall file the statement of organization with the board.

(3) Political committees which support or oppose passage of a county/local ballot issue where there are multiple elections under the jurisdiction of multiple county commissioners shall file duplicate originals with each of the appropriate county commissioners. (Also see rule 351—4.7(56,68B).)

(4) Political committees which support or oppose the election of county or local candidates where there are multiple elections under the jurisdiction of multiple county commissioners shall file duplicate originals with each of the appropriate county commissioners.

**4.1(3)** *Time of filing.* A statement of organization is deemed to be delinquent if it is not received in the appropriate office or mailed bearing a United States Postal Service postmark dated within ten days after the date of organization. However, if the tenth day falls on a Saturday, Sunday, or holiday on which the office of the board or county commissioner where the statement is required to be filed is closed, the filing deadline is extended to the first working day following, and statements of organization received or postmarked on that day will not be considered to be delinquent.

**4.1(4)** *Substitution of definition.*

*a.* Anywhere in Iowa Code chapter 56 that the term "express advocacy" appears, the term means "express advocacy" as defined in 1999 Iowa Acts, Senate File 470, section 1, paragraphs *"b"* and *"c."* If it is determined that the definition of "express advocacy" in 1999 Iowa Acts, Senate File 470, section 1, paragraph *"c,"* is unconstitutional by a court of law, then "express advocacy" will mean "express advocacy" as that term is defined in 1999 Iowa Acts, Senate File 470, section 1, paragraph *"b."*

*b.* Anywhere in this chapter that the term "support or oppose" appears, insert the phrase "expressly advocates". Anywhere in this chapter that either the word "support" or "oppose" appears, insert the phrase "expressly advocates". As used in this chapter, "expressly advocates" means "express advocacy" as defined in 1999 Iowa Acts, Senate File 470, section 1, paragraphs *"b"* and *"c"* and subrule 4.100(1). If it is determined that 1999 Iowa Acts, Senate File 470, section 1, paragraph *"c,"* and paragraph 4.100(1)*"b"* are unconstitutional by a court of law, then "expressly advocates" will mean "express advocacy" as that term is defined in 1999 Iowa Acts, Senate File 470, section 1, paragraph *"b,"* and paragraph 4.100(1)*"a."*

This rule is intended to implement Iowa Code sections 56.4 and 56.5.

**351—4.2(56,68B) Information required: committee name.**

**4.2(1)** *Full name required.* The statement of organization shall include the full name of the committee. A committee which uses an abbreviation or acronym as part of its committee name shall provide a written explanation of the full word or words which are abbreviated or form the acronym. The explanation may be provided with the committee's statement of organization and shall be provided to the board upon request.

**4.2(2)** *Duplication of name prohibited.* The committee name shall not substantially duplicate the name of another committee organized under Iowa Code chapter 56. In cases of dispute, the board shall determine whether two committee names are in substantial duplication in violation of this rule and Iowa Code section 56.5. However, if a candidate with a preexisting open candidate's committee or previously dissolved candidate's committee organizes a new candidate's committee for a new election or for a new office sought, the same committee name may be used provided that the name is in compliance with Iowa Code section 56.5(2)*"a"* and subrule 4.2(3) and that any open committee for the candidate with the same name is dissolved simultaneously with the organization of the new committee.

**4.2(3)** *Candidate's surname required in committee name—candidate's committees.* For candidate's committees filing initial statements of organization on or after July 1, 1995, the candidate's surname shall be contained within the committee name. This requirement also applies to new candidate's committees organized by candidates who have a preexisting candidate's committee, but who organize a new candidate's committee for a new election or for a new office sought.

This rule is intended to implement Iowa Code section 56.5.

**351—4.72(56,68B) Newspaper or magazine.** For the purposes of these rules and Iowa Code section 56.14, "newspaper or magazine" means a regularly scheduled publication of news, articles of opinion, and features available to the general public which does not require membership in or employment by a specific organization.

This rule is intended to implement Iowa Code section 56.14.

**351—4.73(56,68B) Political advertising disclaimers (identification of sponsor).** If published material subject to the disclaimer requirements of Iowa Code section 56.14 consists of more than one page, the disclaimer need only appear on one page of the published material, so long as its placement is conspicuous.

In determining the requirements for identification of the sponsor of political advertising, the final location of the advertising shall be considered.

This rule is intended to implement Iowa Code section 56.14.

**351—4.74(56,68B) Specific items exempted from or subject to attribution statement requirement.**

**4.74(1)** *Items exempted from requirement.* The statute specifically excludes yard signs, matchbooks, bumper stickers, pins, buttons, pens, and "similar small items upon which the inclusion of the attribution statement would be impracticable." This is interpreted to include pencils, emery boards, T-shirts, caps, and other articles of clothing where printing an attribution statement would greatly increase the cost of the item.

**4.74(2)** *Items subject to requirement.* In addition to those items specified by the statute, the requirement for an attribution statement is interpreted to apply to scratch pads, political business cards, and postcards because inclusion of the statement is not impracticable when other text is being printed, and the cost is not significantly increased by printing it.

This rule is intended to implement Iowa Code section 56.14.

**351—4.75(56,68B) Apparent violations; remedial actions.**

**4.75(1)** If advertising or other published material is provided to the board which upon its face appears to omit an attribution statement as required by Iowa Code section 56.14 and these rules, the board may contact third parties, including newspapers and printers, in an effort to determine the identity of the responsible party.

**4.75(2)** If advertising or other published material was initially distributed without the required attribution statement, a potential remedial measure which may be directed by the board in an effort to achieve informal resolution shall be republication or distribution of a notice to the same or substantially the same portion of the public which was exposed to the initial advertisement or publication. The notice shall be in substantially the following form:

> On (date), (I/we) (ran an advertisement/distributed a brochure/sent a mailing) (describe political activity advocated, e.g., asking for your contribution to my campaign, asking you to vote against the ballot issue). That (ad/brochure/mailing) failed to contain an attribution statement as required by Iowa Code section 56.14, necessary to provide notice as to who had paid for the material. It was in fact paid for by (name). ((I/we) regret any misunderstanding.)
>
> Paid for by (detail of attribution in conformity with rule 4.70(56,68B)).

If the notice is run in a newspaper, the newspaper shall be of sufficiently wide circulation to reach virtually all members of the public originally exposed to the initial advertisement or publication. The notice shall also be in a section of the newspaper other than the classified section, be at least one column wide, and have a black border surrounding the ad.

This rule is intended to implement Iowa Code section 56.14.

**351—4.76 to 4.79** Reserved.

DIVISION IV
CORPORATE POLITICAL ACTIVITY

**351—4.80(56,68B) Use of corporate property prohibited.** It is unlawful for a candidate's committee or other political committee to use any property of a corporate entity, and it is unlawful for a corporate entity to knowingly permit the use of its property by a candidate's committee or other political committee. "Corporate entity" as used in these rules means any profit or nonprofit corporation, and includes, but is not limited to, farm corporations, professional corporations (P.C.s), banks, savings and loan institutions, credit unions and insurance companies. For the purpose of these rules, the prohibited use of the property of a corporate entity shall include, but not be limited to, the following:

**4.80(1)** The physical placement of signs, billboards, posters, bumper stickers, brochures or other political advertising on corporate personal and real property, including the interior and exterior of buildings and motor vehicles. However, these rules are not intended to prohibit the use by a political committee or a candidate's committee of an area commonly available to any member of the general public for other purposes.

**4.80(2)** The placement of a yard sign on the lawn or grounds of property owned by a corporate entity, unless the property is rented or leased to an individual for residential purposes, or unless the property is agricultural land owned by a family farm corporation.

**4.80(3)** The use of motor vehicles, telephone equipment, long distance lines, computers, typewriters, office space, duplicating equipment and supplies, stationery, envelopes, labels, postage, postage meters or the distribution or communication systems of corporate entities.

**4.80(4)** The use of corporate entity facilities, premises, recreational facilities and housing that are not ordinarily available to the general public.

**4.80(5)** The furnishing of beverages and other refreshments that are not ordinarily available to the general public.

**4.80(6)** The contributing of money of the corporate entity.

**4.80(7)** Any other transaction conducted between a corporation and a candidate's or political committee is presumed to be a corporate contribution unless the candidate or political committee establishes to the contrary.

This rule is intended to implement Iowa Code section 56.15.

**351—4.81(56,68B) Corporate-sponsored political action committee.** These rules do not prevent a corporate entity from soliciting eligible members to join or contribute to its own corporate-sponsored political action committee (PAC), so long as the corporate entity adheres to the provisions of Iowa Code section 56.15.

This rule is intended to implement Iowa Code section 56.15.

**351—4.82(56,68B) Voter education.** These rules do not prevent a corporate entity from providing or publicizing voter registration procedures, election day information, voting procedures or other voter education information, so long as the information provided does not expressly advocate the election or defeat of a clearly identified candidate.

This rule is intended to implement Iowa Code section 56.15.

**351—4.83(56,68B) Permitted activity—reimbursement required.** The prohibitions against certain transactions between corporate entities and candidates or committees supporting or opposing candidates contained in Iowa Code section 56.15 and further delineated in rule 4.80(56,68B) are not construed to prohibit activity which occurs consistent with this rule.

**4.113(2)** *Settlement of contested debts.* If there is a dispute or contest between the committee and a creditor which is a corporation, in order to discharge or settle a committee debt for less than the original amount of the indebtedness, the committee and the creditor shall submit a written statement to the board describing the debt and the controversy. The corporate creditor shall also describe the steps taken to settle or collect the debt in question, as well as describing the steps taken to settle or collect other debts owed to the creditor by other persons in the creditor's ordinary course of business. The board will review these matters on a case-by-case basis in order to determine whether to allow the committee to report the debt as discharged. If there is a dispute or contest between the committee and a creditor who is not a corporation, the debt may be discharged or settled for less than the original amount of the debt if the committee provides with its disclosure report a written and signed agreement between the two parties describing the debt and the controversy and the resolution or settlement to which the parties have agreed. However, if for a committee debt owed to any creditor, whether a corporation or not, a copy of a final court order which establishes as a finding of fact or conclusion of law that the committee has no further liability on the obligation to the creditor shall be dispositive of the issue for purposes of whether the debt can be reported as discharged.

**4.113(3)** *Unavailable creditor.* If the committee cannot locate a person to whom it owes a debt, the committee shall provide the board with a written statement describing the steps it has taken to locate the creditor and shall request direction from the board as to what additional steps, if any, should be taken. If the debt is owed a corporation, the additional steps may include payment to a charitable entity or the general fund of the state of Iowa as provided in rule 4.111(56,68B).

This rule is intended to implement Iowa Code sections 56.6 and 56.15.

**351—4.114** to **4.119** Reserved.

[Filed 10/17/75, Notice 8/25/75—published 11/3/75, effective under emergency provision 11/21/75]
[Filed 10/28/75, Notice 8/25/75—published 11/17/75, effective 12/22/75]
[Filed 11/26/75, Notice 8/25/75—published 12/15/75, effective 2/1/76]
[Amendment filed without notice 11/26/75—published 12/15/75]
[Filed emergency 2/11/76—published 3/8/76, effective 2/11/76]
[Filed 2/19/76, Notice 11/17/75—published 3/8/76, effective 4/12/76]
[Filed 4/1/76, Notice 11/17/75—published 4/19/76, effective 5/24/76]
[Filed 6/4/76—published 6/28/76, effective 8/2/76]
[Filed emergency 7/14/76—published 8/9/76, effective 7/14/76]
[Filed 1/7/77, Notice 12/1/76—published 1/26/77, effective 3/2/77]
[Filed 4/30/79, Notice 3/21/79—published 5/30/79, effective 7/4/79*]
[Filed 8/29/80, Notice 5/28/80—published 9/17/80, effective 10/22/80]
[Filed 11/6/81, Notice 9/3/81—published 11/25/81, effective 1/1/82]
[Filed 11/4/83, Notice 8/3/83—published 11/23/83, effective 1/1/84]
[Filed 5/16/86, Notice 3/12/86—published 6/4/86, effective 9/3/86]
[Filed 8/21/87, Notice 6/17/87—published 9/9/87, effective 10/14/87]
[Filed 4/26/89, Notice 2/22/89—published 5/17/89, effective 6/21/89]
[Filed 4/23/92, Notice 2/19/92—published 5/13/92, effective 6/17/92]
[Filed 11/17/92, Notice 9/16/92—published 12/9/92, effective 1/13/93]
[Filed emergency 1/15/93—published 2/3/93, effective 1/15/93]
[Filed 9/23/93, Notice 4/28/93—published 10/13/93, effective 11/17/93]
[Filed 3/11/94, Notice 1/5/94—published 3/30/94, effective 5/4/94]
[Filed emergency 6/16/94—published 7/6/94, effective 6/16/94]
[Filed 7/29/94, Notice 5/25/94—published 8/17/94, effective 9/21/94]
[Filed 12/16/94, Notice 8/17/94—published 1/4/95, effective 2/8/95]◊
[Filed 7/28/95, Notice 5/24/95—published 8/16/95, effective 9/20/95]
[Filed 7/28/95, Notice 6/21/95—published 8/16/95, effective 9/20/95]◊
[Filed 10/6/95, Notice 7/19/95—published 10/25/95, effective 11/29/95]
[Filed 7/12/96, Notice 4/24/96—published 7/31/96, effective 9/4/96]◊
[Filed 10/18/96, Notice 8/28/96—published 11/6/96, effective 12/11/96]
[Filed 12/24/96, Notice 11/6/96—published 1/15/97, effective 2/19/97]
[Filed 6/13/97, Notice 5/7/97—published 7/2/97, effective 8/6/97]
[Filed 5/15/98, Notice 3/11/98—published 6/3/98, effective 7/8/98]◊
[Filed 7/10/98, Notice 6/3/98—published 7/29/98, effective 9/2/98]
[Filed 3/3/99, Notice 1/13/99—published 3/24/99, effective 4/28/99]
[Filed emergency 6/9/99—published 6/30/99, effective 6/9/99]

*Effective date of rule 4.16 delayed by the Administrative Rules Review Committee 45 days after convening of the next General Assembly pursuant to §17A.8(9).
◊Two or more ARCs

CHAPTERS 31 to 33
Reserved

CHAPTER 34
ALTERNATIVE DIAGNOSTIC FACILITIES
34.1(225C) Definitions
34.2(225C) Function
34.3(225C) Standards

CHAPTERS 35 to 37
Reserved

CHAPTER 38
DEVELOPMENTAL DISABILITIES
BASIC STATE GRANT
38.1(225C,217) Definitions
38.2(225C,217) Program eligibility
38.3(225C,217) Application under competitive process
38.4(225C,217) Competitive project awards
38.5(225C,217) Sole source or emergency selection project awards
38.6(225C,217) Field-initiated proposals
38.7(225C,217) Notification
38.8(225C,217) Request for reconsideration
38.9(225C,217) Contracts
38.10 Reserved
38.11(225C,217) Reallocation of funds
38.12(225C,217) Conflict of interest policy

CHAPTER 39
MENTAL ILLNESS SPECIAL
SERVICES FUND
DIVISION I
39.1 to 39.20 Reserved
DIVISION II
CONSTRUCTION AND START-UP COSTS
39.21(225C) Definitions
39.22(225C) Distribution of funds
39.23(225C) State grant application process
39.24(225C) Contracts
39.25(225C) Records
39.26(225C) Evaluation
39.27(225C) Conflict of interest
39.28(225C) Appeals
39.29(225C) Stewart B. McKinney application process

TITLE IV
*FAMILY INVESTMENT PROGRAM*

CHAPTER 40
APPLICATION FOR AID
DIVISION I
40.1 to 40.20 Reserved
DIVISION II
FAMILY INVESTMENT PROGRAM—
TREATMENT GROUP
40.21(239B) Definitions
40.22(239B) Application
40.23(239B) Date of application
40.24(239B) Procedure with application
40.25(239B) Time limit for decision
40.26(239B) Effective date of grant
40.27(239B) Continuing eligibility
40.28(239B) Referral for investigation
40.29(239B) Conversion to the X-PERT system

CHAPTER 41
GRANTING ASSISTANCE
DIVISION I
41.1 to 41.20 Reserved
DIVISION II
FAMILY INVESTMENT PROGRAM—
TREATMENT GROUP
41.21(239B) Eligibility factors specific to child
41.22(239B) Eligibility factors specific to payee
41.23(239B) Home, residence, citizenship, and alienage
41.24(239B) Promoting independence and self-sufficiency through employment job opportunities and basic skills (PROMISE JOBS) program
41.25(239B) Uncategorized factors of eligibility
41.26(239B) Resources
41.27(239B) Income
41.28(239B) Need standards
41.29(239B) Composite FIP/SSI cases

CHAPTER 42
UNEMPLOYED PARENT

DIVISION I

42.1 to 42.20 Reserved

DIVISION II
FAMILY INVESTMENT PROGRAM—
TREATMENT GROUP

42.21(239) Definitions
42.22(239) Deprivation
42.23 Reserved
42.24(239) Eligibility
42.25(77GA,SF516) Not considered unemployed
42.26 and 42.27 Reserved
42.28(239) Assistance continued

CHAPTER 43
ALTERNATE PAYEES

DIVISION I

43.1 to 43.20 Reserved

DIVISION II
FAMILY INVESTMENT PROGRAM—
TREATMENT GROUP

43.21(239) Conservatorship or guardianship
43.22(239) Protective payments
43.23(239) Vendor payments
43.24(239) Emergency payee

CHAPTER 44
Reserved

CHAPTER 45
PAYMENT

DIVISION I

45.1 to 45.20 Reserved

DIVISION II
FAMILY INVESTMENT PROGRAM—
TREATMENT GROUP

45.21(239) Address
45.22(239) Return
45.23(239) Held warrants
45.24(239) Underpayment
45.25(239) Deceased payees
45.26(239) Limitation on payment
45.27(239) Rounding of need standard and payment amount

CHAPTER 46
OVERPAYMENT RECOVERY

DIVISION I

46.1 to 46.20 Reserved

DIVISION II
FAMILY INVESTMENT PROGRAM—
TREATMENT GROUP

46.21(239) Definitions
46.22(239) Monetary standards
46.23(239) Notification and appeals
46.24(239B) Determination of overpayments
46.25(239) Source of recoupment
46.26 Reserved
46.27(239) Procedures for recoupment
46.28(239) Intentional program violation
46.29(77GA,SF516) Fraudulent misrepresentation of residence

## CHAPTER 47
## PILOT DIVERSION INITIATIVES

DIVISION I
PILOT FIP-APPLICANT DIVERSION PROGRAM
47.1(239B) Definitions
47.2(239B) Availability of program
47.3(239B) General criteria
47.4(239B) Assistance available
47.5(239B) Relationship to the family investment program and TANF
47.6(239B) Local plans
47.7(239B) Notification and appeals
47.8(239B) Funding, rates and method of payment
47.9(239B) Termination of pilot projects
47.10(239B) Records and reports
47.11(239B) Renewal of existing approved pilot projects
47.12 to 47.20 Reserved

DIVISION II
FAMILY SELF-SUFFICIENCY GRANTS PROGRAM
47.21(239B) Definitions
47.22(239B) Availability of the family self-sufficiency grants program
47.23(239B) General criteria
47.24(239B) Assistance available in family self-sufficiency grants
47.25(239B) Application, notification, and appeals
47.26(239B) Approved local plans for family self-sufficiency grants
47.27 to 47.40 Reserved

DIVISION III
PILOT COMMUNITY SELF-SUFFICIENCY GRANTS PROGRAM
47.41(239B) Definitions
47.42(239B) Availability of the community self-sufficiency grants program
47.43(239B) General criteria
47.44(239B) Assistance available under community self-sufficiency grants
47.45(239B) Approved pilot project plans
47.46(239B) Notification and appeals for community self-sufficiency grant projects
47.47(239B) Termination of pilot projects
47.48(239B) Records and reports
47.49(239B) Renewal of existing approved pilot projects
47.50 to 47.60 Reserved

DIVISION IV
PILOT POST-FIP DIVERSION PROGRAM
47.61(239B) Definitions
47.62(239B) Submitting proposals
47.63(239B) Project administration
47.64(239B) Availability of program
47.65(239B) General criteria
47.66(239B) Assistance available
47.67(239B) Local plans
47.68(239B) Notification and appeals
47.69(239B) Funding, rates and method of payment
47.70(239B) Termination of pilot projects
47.71(239B) Records and reports
47.72(239B) Renewal of existing approved pilot projects

## CHAPTER 48
## FAMILY INVESTMENT PROGRAM ELIGIBILITY UNDER SELF-EMPLOYMENT DEMONSTRATION PROJECTS

DIVISION I
48.1 to 48.20 Reserved

DIVISION II
FAMILY INVESTMENT PROGRAM—TREATMENT GROUP
48.21(249C) Pilot project site selection criteria
48.22(249C) Program area
48.23(249C) Family investment program eligibility

## CHAPTER 49
## TRANSITIONAL CHILD CARE ASSISTANCE PROGRAM

DIVISION I
49.1 to 49.20 Reserved

DIVISION II
FAMILY INVESTMENT PROGRAM—TREATMENT GROUP
49.21(239) Eligibility for transitional child care
49.22(239) Eligible children
49.23(239) Child care facilities eligible to participate
49.24(239) Effective date of eligibility
49.25(239) Reasons for ineligibility for transitional child care assistance
49.26(239) Income
49.27(239) Copayments

49.28(239) Copayment requirement
49.29(239) Billing procedures
49.30(239) Payment
49.31(239) Termination of eligibility
49.32(239) Notification and appeals
49.33(239) Overpayments and recovery
49.34(239) Families transitioned from the state-funded transitional child care assistance program
49.35(239) Waiting lists
49.36(239B) Termination of program

TITLE V
*STATE SUPPLEMENTARY ASSISTANCE*

CHAPTER 50
APPLICATION FOR ASSISTANCE
50.1(249) Definitions
50.2(249) Application procedures
50.3(249) Approval of application and effective date of eligibility
50.4(249) Reviews
50.5(249) Application under conditional benefits

CHAPTER 51
ELIGIBILITY
51.1(249) Application for other benefits
51.2(249) Supplementation
51.3(249) Eligibility for residential care
51.4(249) Dependent relatives
51.5(249) Residence
51.6 Reserved
51.7(249) Income from providing room and board
51.8(249) Furnishing of social security number
51.9(249) Recovery

CHAPTER 52
PAYMENT
52.1(249) Assistance standards

CHAPTER 53
RENT SUBSIDY PROGRAM
53.1(77GA,ch1218) Definitions
53.2(77GA,ch1218) Eligibility requirements
53.3(77GA,ch1218) Application
53.4(77GA,ch1218) Amount of rent subsidy
53.5(77GA,ch1218) Redetermination of eligibility
53.6(77GA,ch1218) Termination of rent subsidy payments
53.7(77GA,ch1218) Fraudulent practices relating to the rent subsidy program
53.8(77GA,ch1218) Appeals

CHAPTER 54
FACILITY PARTICIPATION
54.1(249) Application and contract agreement
54.2(249) Maintenance of case records
S4.3(249) Financial and statistical report
54.4(249) Goods and services provided
54.5(249) Personal needs account
54.6(249) Case activity report
54.7(249) Billing procedures
54.8(249) Audits

TITLE VI
*GENERAL PUBLIC ASSISTANCE PROVISIONS*

CHAPTER 55
Reserved

CHAPTER 56
BURIAL BENEFITS
56.1(239,249) Application
56.2(239,249) Categorical eligibility
56.3(239,249) Determination of benefit amount
56.4(239,249) Claim for payment

CHAPTER 57
INTERIM ASSISTANCE REIMBURSEMENT
57.1(249) Definitions
57.2(249) Requirements for reimbursement
57.3(249) Audits by the department of human services
57.4(249) Independent audits
57.5(249) Withholding of funds
57.6(249) Notice of interim assistance reimbursement eligibility and accountability
57.7(249A) Certification of authority

CHAPTER 58
EMERGENCY ASSISTANCE PROGRAM

DIVISION I
58.1 to 58.20 Reserved

DIVISION II
FAMILY INVESTMENT PROGRAM—TREATMENT GROUP
58.21(234) Definitions
58.22(234) General provisions
58.23(234) Application procedures
58.24(234) Eligibility requirements
58.25(234) Determination of need
58.26(234) Income
58.27(234) Resources
58.28(234) Payment
58.29(234) Notification and appeals

CHAPTER 89
DEBTS DUE FROM
TRANSFERS OF ASSETS
89.1(249F) Definitions
89.2(249F) Creation of debt
89.3(249F) Exceptions
89.4(249F) Presumption of intent
89.5(249F) Notice of debt
89.6(249F) No timely request of a hearing
89.7(249F) Timely request for a hearing
89.8(249F) Department-requested hearing
89.9(249F) Filing and docketing of the order

TITLE IX
*WORK INCENTIVE DEMONSTRATION*

CHAPTERS 90 to 92
Reserved

CHAPTER 93
PROMISE JOBS PROGRAM

DIVISION I
93.1 to 93.100 Reserved

DIVISION II
FAMILY INVESTMENT PROGRAM—
TREATMENT GROUP
93.101(239B) Program area
93.102 Reserved
93.103(239B) Contracts with provider agencies for provision of services
93.104(239B) Registration and referral requirements
93.105(239B) Priority of service
93.106(239B) Orientation for PROMISE JOBS and the FIA
93.107(239B) Medical examinations
93.108(239B) Self-initiated training
93.109(239B) The family investment agreement (FIA)
93.110(239B) Arranging for services
93.111(239B) Assessment and assignment to other activities and components
93.112(239B) Job search options
93.113(239B) Monitored employment
93.114(239B) Assignment to vocational classroom training
93.115(239B) Unpaid community service
93.116(239B) Parenting skills training
93.117(239B) Health and safety
93.118(239B) Family planning
93.119(239B) PROMISE JOBS family development
93.120 Reserved
93.121(239B) Assignment to work experience
93.122(239B) FIP-UP work program
93.123(239B) PROMISE JOBS on-the-job training (OJT)
93.124 to 93.128 Reserved
93.129(239B) Nonparticipation by volunteers
93.130 Reserved
93.131(239B) Failure to participate in classroom training
93.132(239B) Participation issues for FIA-responsible persons
93.133(239B) Problems with participation of a temporary or incidental nature
93.134(239B) Barriers to participation
93.135(239B) Required client documentation
93.136 Reserved
93.137(239B) Written notification
93.138(239B) Resolution of disputes around the FIA and PROMISE JOBS participation
93.139(239B) Notice of decision
93.140(239B) Right of appeal
93.141 and 93.142 Reserved
93.143(239B) Confidentiality
93.144(239B) PROMISE JOBS grievance procedure
93.145(239B) Workers' compensation for PROMISE JOBS work experience participants
93.146(239B) Safety rules from PROMISE JOBS work sponsors
93.147 Reserved
93.148(239B) Records maintenance
93.149 Reserved
93.150(239B) Financial
93.151(239B) Recovery of PROMISE JOBS expense allowances

CHAPTER 94
IOWA TRANSITIONAL ASSISTANCE
FOR DIRECT EDUCATION COSTS
PROGRAM
94.1(239B) Program scope
94.2(239B) Provision of services
94.3(239B) Participant eligibility
94.4(239B) Eligible costs
94.5(239B) Educational financial awards

94.6(239B) Payment of eligible costs
94.7(239B) Establishing need for payments
94.8(239B) Use of payments
94.9(239B) Limits on allowances
94.10(239B) Maximum limit on ITADEC funding
94.11(239B) Completion or termination of a training plan
94.12(239B) Recovery of ITADEC expense allowances
94.13(239B) Right of appeal
94.14(239B) Confidentiality

TITLE X
*SUPPORT RECOVERY*

CHAPTER 95
COLLECTIONS

95.1(252B) Definitions
95.2(252B) Child support recovery eligibility and services
95.3(252B) Crediting of current and delinquent support
95.4(252B) Prepayment of support
95.5(252B) Lump sum settlement
95.6(252B) Setoff against state income tax refund or rebate
95.7(252B) Offset against federal income tax refund and federal nontax payment
95.8(96) Child support setoff of unemployment benefits
95.9 to 95.11 Reserved
95.12(252B) Procedures for providing information to consumer reporting agencies
95.13(17A) Appeals
95.14(252B) Termination of services
95.15(252B) Child support recovery unit attorney
95.16(252B) Handling and use of federal 1099 information
95.17(252B) Effective date of support
95.18(252B) Continued services available to canceled family investment program (FIP) or Medicaid recipients
95.19(252B) Cooperation of public assistance recipients in establishing and obtaining support
95.20(252B) Cooperation of public assistance applicants in establishing and obtaining support
95.21(252B) Cooperation in establishing and obtaining support in nonpublic assistance cases
95.22(252B) Charging pass-through fees
95.23(252B) Reimbursing assistance with collections of assigned support
95.24(252B) Child support account
95.25(252B) Emancipation verification

CHAPTER 96
INFORMATION AND RECORDS

96.1(252B) Access to information and records from other sources
96.2(252B) Refusal to comply
96.3(252B) Procedure for refusal
96.4(252B) Conference conducted
96.5(252B) Fine assessed
96.6(252B) Objection to fine or failure to pay

CHAPTER 97
COLLECTION SERVICES CENTER

97.1(252B) Definitions
97.2(252B) Support payment records
97.3(252B) Support payments
97.4(252B) Conversion of records and payments

CHAPTER 98
SUPPORT ENFORCEMENT SERVICES

DIVISION I
MEDICAL SUPPORT ENFORCEMENT

98.1(252E) Definitions
98.2(252E) Provision of services
98.3(252E) Establishing medical support
98.4(252E) Accessibility of the health benefit plan
98.5(252E) Health benefit plan information
98.6(252E) Insurer authorization
98.7(252E) Enforcement
98.8(252E) Contesting the order
98.9 to 98.20 Reserved

DIVISION II
INCOME WITHHOLDING
PART A
DELINQUENT SUPPORT PAYMENTS

98.21(252D) When applicable
98.22(252D) Advance legal notice of income withholding
98.23(252D) Filing the order and copy to the obligor
98.24(252D) Amount of order
98.25 to 98.30 Reserved

PART B
IMMEDIATE INCOME WITHHOLDING

98.31(252D) Effective date
98.32(252D) Withholding automatic

113.18(237) Training and discipline of foster children
113.19(237) Emergency care and release of children
113.20(237) Changes in foster family home

CHAPTER 114
LICENSING AND REGULATION OF ALL GROUP LIVING FOSTER CARE FACILITIES FOR CHILDREN
114.1(237) Applicability
114.2(237) Definitions
114.3(237) Physical standards
114.4(237) Sanitation, water, and waste disposal
114.5(237) Safety
114.6(237) Organization and administration
114.7(237) Policies and record-keeping requirements
114.8(237) Staff
114.9(237) Intake procedures
114.10(237) Program services
114.11(237) Case files
114.12(237) Drug utilization and control
114.13(237) Children's rights
114.14(237) Personal possessions
114.15(237) Religion—culture
114.16(237) Work or vocational experiences
114.17(237) Family involvement
114.18(237) Children's money
114.19(237) Child abuse
114.20(237) Discipline
114.21(237) Illness, accident, death, or absence from the facility
114.22(237) Records
114.23(237) Unannounced visits
114.24(237) Standards for private juvenile shelter care and detention homes

CHAPTER 115
LICENSING AND REGULATION OF COMPREHENSIVE RESIDENTIAL FACILITIES FOR CHILDREN
115.1(237) Applicability
115.2(237) Definitions
115.3(237) Information upon admission
115.4(237) Staff
115.5(237) Program services
115.6(237) Restraints
115.7(237) Control room
115.8(237) Locked cottages
115.9(237) Mechanical restraint
115.10(237) Chemical restraint

CHAPTER 116
LICENSING AND REGULATION OF RESIDENTIAL FACILITIES FOR MENTALLY RETARDED CHILDREN
116.1(237) Applicability
116.2(237) Definitions
116.3(237) Qualifications of staff
116.4(237) Staff-to-client ratio
116.5(237) Program components
116.6(237) Restraint

CHAPTER 117
FOSTER PARENT TRAINING
117.1(237) Required preservice training
117.2(237) Required preplacement orientation
117.3(237) Application materials
117.4(237) Application process
117.5(237) Application decisions
117.6(237) Application conference available
117.7(237) Required in-service training
117.8(237) Advisory committee

CHAPTER 118
CRISIS CHILD CARE PROVIDERS
118.1(237A) Definitions
118.2(237A) Standards
118.3(237A) Additional requirements for family and group day care homes

CHAPTERS 119 to 129
Reserved

TITLE XIII
*SERVICE ADMINISTRATION*

CHAPTER 130
GENERAL PROVISIONS
130.1(234) Definitions
130.2(234,239B) Application
130.3(234,239B) Eligibility
130.4(234,239B) Fees
130.5(234) Adverse service actions
130.6(234) Social casework
130.7(234) Case plan
130.8 Reserved
130.9(234) Entitlement

CHAPTER 131
SOCIAL CASEWORK
131.1(234) Definitions
131.2(234) Eligibility
131.3(234) Service provision
131.4 Reserved
131.5(234) Adverse actions

CHAPTER 132
Reserved

CHAPTER 133
IV-A EMERGENCY
ASSISTANCE PROGRAM
133.1(235) Definitions
133.2(235) Application
133.3(235) Eligibility
133.4(235) Method of service provision
133.5(235) Duration of services
133.6(235) Discontinuance of the program

CHAPTERS 134 to 141
Reserved

CHAPTER 142
INTERSTATE COMPACT ON THE
PLACEMENT OF CHILDREN
142.1(238) Compact agreement
142.2(238) Compact administrator
142.3(238) Article II(d)
142.4(238) Article III(a)
142.5(238) Article III(a) procedures
142.6(238) Article III(c)
142.7(238) Article VIII(a)
142.8(238) Applicability

CHAPTER 143
INTERSTATE COMPACT ON JUVENILES
143.1(232) Compact agreement
143.2(232) Compact administrator
143.3(232) Sending a juvenile out of Iowa under the compact
143.4(232) Receiving cases in Iowa under the interstate compact
143.5(232) Runaways

CHAPTERS 144 to 149
Reserved

TITLE XIV
*GRANT/CONTRACT/PAYMENT ADMINISTRATION*

CHAPTER 150
PURCHASE OF SERVICE
DIVISION I
CATEGORIES OF CONTRACTS, TERMS AND CONDITIONS FOR IOWA PURCHASE OF SOCIAL SERVICES AGENCY AND INDIVIDUAL CONTRACTS, IOWA PURCHASE OF ADMINISTRATIVE SUPPORT, AND IOWA DONATIONS OF FUNDS CONTRACT AND PROVISIONS FOR PROVIDER ADVISORY COMMITTEE AND PUBLIC ACCESS TO CONTRACTS
150.1(234) Definitions
150.2(234) Categories of contracts
150.3(234) Iowa purchase of social services agency contract
150.4(234) Iowa purchase of social services contract—individual providers
150.5(234) Iowa purchase of administrative support
150.6 Reserved
150.7(234) Iowa donation of funds contract
150.8(234) Provider advisory committee
150.9(234) Public access to contracts
150.10 to 150.20 Reserved
DIVISION II
PURCHASE OF SOCIAL SERVICES CONTRACTING ON BEHALF OF COUNTIES FOR LOCAL PURCHASE SERVICES FOR ADULTS WITH MENTAL ILLNESS, MENTAL RETARDATION, AND DEVELOPMENTAL DISABILITIES
150.21(234) Definitions
150.22(234) Department contracts on behalf of counties

CHAPTER 151
COURT-ORDERED SERVICES
DIVISION I
COURT-ORDERED CARE AND TREATMENT
151.1(232) Expenses to be reimbursed
151.2(232) Amount to be reimbursed
151.3(232) Reporting and reimbursement requirements
151.4 to 151.20 Reserved
DIVISION II
ADOLESCENT MONITORING AND OUTREACH SERVICES
151.21(232) Definitions
151.22(232) Service components
151.23(232) Application
151.24(232) Eligibility
151.25(232) Service provision
151.26(232) Service termination and reduction
151.27(232) Appeals
151.28(232) Billing and payment procedures
151.29(232) Allocation of funds
151.30(232) Client records
151.31 to 151.40 Reserved
DIVISION III
SUPERVISED COMMUNITY TREATMENT PROGRAM SERVICES
151.41(232) Definitions
151.42(232) Service components
151.43(232) Service application
151.44(232) Service eligibility
151.45(232) Service coordination
151.46(232) Provider progress reports
151.47(232) Service reduction or termination
151.48(232) Appeals
151.49(232) Provider standards, contracting, rates, and billing and payment
151.50(232) Staff qualifications and training
151.51(232) Allocation and management of funds
151.52 to 151.60 Reserved

CHAPTERS 161 and 162
Reserved

CHAPTER 163
ADOLESCENT PREGNANCY PREVENTION AND SERVICES TO PREGNANT AND PARENTING ADOLESCENTS PROGRAMS

163.1(234) Definitions
163.2(234) Availability of grants for projects
163.3(234) Project eligibility
163.4(234) Request for proposals for pilot project grants
163.5(234) Selection of proposals
163.6(234) Project contracts
163.7(234) Records
163.8(234) Evaluation
163.9(234) Termination of contract
163.10(234) Appeals

CHAPTER 164
FOSTER CARE PROJECT GRANTS

164.1(72GA,ch1276) Definitions
164.2(72GA,ch1276) Availability of grants
164.3(72GA,ch1276) Who may apply
164.4(72GA,ch1276) Request for proposals
164.5(72GA,ch1276) Application materials
164.6(72GA,ch1276) Submission process
164.7(72GA,ch1276) Selection process
164.8(72GA,ch1276) Notification of applicants
164.9(72GA,ch1276) Appeals
164.10(72GA,ch1276) Contracts
164.11(72GA,ch1276) Records
164.12(72GA,ch1276) Quarterly progress reports
164.13(72GA,ch1276) Evaluation
164.14(72GA,ch1276) Termination of contract
164.15(72GA,ch1276) Reallocation of funds
164.16(234) Federal grants

CHAPTER 165
FAMILY DEVELOPMENT AND SELF-SUFFICIENCY PROGRAM

165.1(217) Definitions
165.2(217) Council
165.3(217) Funding of grants
165.4(217) Families at risk
165.5(217) Grant application process
165.6(217) Selection of grantees
165.7(217) Contract with grantee
165.8(217) Grantee responsibilities
165.9(217) Evaluation
165.10(217) Contract revision and termination
165.11(217) Reconsideration

CHAPTER 166
Reserved

CHAPTER 167
JUVENILE DETENTION REIMBURSEMENT

DIVISION I
ANNUAL REIMBURSEMENT PROGRAM

167.1(232) Definitions
167.2(232) Availability of funds
167.3(232) Eligible facilities
167.4(232) Available reimbursement
167.5(232) Submission of voucher
167.6(232) Reimbursement by the department
167.7 to 167.10 Reserved

DIVISION II
SEVENTY-TWO HOUR REIMBURSEMENT PROGRAM
RESERVED

CHAPTER 168
CHILD DAY CARE GRANTS PROGRAMS

168.1(234) Definitions
168.2(234) Availability of grants
168.3(234) Grant eligibility
168.4(234) Request for proposals for grant applications
168.5(234) Selection of proposals
168.6(234) Grant contracts
168.7(234) Evaluation
168.8(234) Termination of contract
168.9(234) Appeals

CHAPTER 169
FUNDING FOR EMPOWERMENT AREAS

169.1(7I) Definitions
169.2(7I) Use of funds
169.3(7I) Eligibility for funding
169.4(7I) Funding availability
169.5(7I) Community empowerment areas' responsibilities
169.6(7I) Iowa empowerment board's responsibilities
169.7(7I) Department of human services' responsibilities
169.8(7I) Revocation of funding
169.9(7I) Appeals

TITLE XV
*INDIVIDUAL AND FAMILY SUPPORT AND PROTECTIVE SERVICES*

CHAPTER 170
CHILD CARE SERVICES

170.1(234) Definitions
170.2(234) Eligibility
170.3(234) Goals
170.4(234) Elements of service provision
170.5(234) Adverse service actions
170.6(234) Appeals
170.7 Reserved
170.8(234) Allocation of funds

CHAPTER 171
ADULT DAY CARE

171.1(234) Definitions
171.2(234) Approval
171.3(234) Eligibility
171.4(234) Situations served
171.5(234) Standards
171.6(234) Component services to be provided
171.7(234) Availability of component day care services
171.8(234) Termination

CHAPTER 172
SHELTERED WORK/WORK ACTIVITY SERVICES

172.1(234) Definitions
172.2(234) Approval
172.3(234) Eligibility
172.4(234) Assessment (diagnosis and evaluation)
172.5(234) Case plan (individual service plan)
172.6(234) Provider's individual program plan
172.7(234) Termination

CHAPTER 173
FAMILY PLANNING SERVICES

173.1(234) Definitions
173.2(234) Eligibility
173.3(234) Choice of provider
173.4(234) Referrals
173.5 and 173.6 Reserved
173.7(234) Need

CHAPTER 174
TRANSPORTATION SERVICES

174.1(234) Eligibility
174.2(234) Services provided
174.3(234) Handicapped individuals
174.4(234) Payment
174.5(234) Termination

CHAPTER 175
ABUSE OF CHILDREN

DIVISION I
CHILD ABUSE

175.1 to 175.20 Reserved

DIVISION II
CHILD ABUSE ASSESSMENT PILOT PROJECTS

175.21(232,235A) Definitions
175.22(232) Receipt of a report of child abuse
175.23(232) Sources of report of child abuse
175.24(232) Child abuse assessment intake process
175.25(232) Child abuse assessment process
175.26(232) Completion of a child protective assessment summary
175.27(232) Contact with juvenile court or the county attorney
175.28(232) Consultation with health practitioners or mental health professionals
175.29(232) Consultation with law enforcement
175.30(232) Information shared with law enforcement
175.31(232) Completion of required correspondence
175.32(232,235A) Case records
175.33(232,235A) Child protection centers
175.34(232) Department-operated facilities
175.35(232,235A) Jurisdiction of assessments
175.36(235A) Multidisciplinary teams
175.37(232) Community education
175.38(235) Written authorizations
175.39(232) Founded child abuse
175.40(235A) Retroactive reviews
175.41(235A) Access to child abuse information
175.42(235A) Person conducting research
175.43(235A) Child protection services citizen review panels

**40.24(3)** The applicant who is subject to monthly reporting as described in 40.27(1) shall become responsible for completing Form PA-2140-0, Public Assistance Eligibility Report, after the time of the face-to-face interview. This form shall be issued and returned according to the requirements in 40.27(4)"*b.*" The application process shall continue as regards the initial two months of eligibility, but eligibility and the amount of payment for the third month and those following are dependent on the proper return of these forms. The county office shall explain to the applicant at the time of the face-to-face interview the applicant's responsibility to complete and return this form.

**40.24(4)** The decision with respect to eligibility shall be based on the applicant's eligibility or ineligibility on the date the county office enters all eligibility information into the department's computer system, except as described in 40.24(3). The applicant shall become a recipient on the date the county office enters all eligibility information into the department's computer system and the computer system determines the applicant is eligible for aid.

This rule is intended to implement Iowa Code sections 239B.4, 239B.5 and 239B.6.

**441—40.25(239B) Time limit for decision.** The applicant shall receive a notice approving assistance, or a written notice of denial as soon as possible, but not later than 30 days from the date of application. This time standard shall apply except in unusual circumstances, such as when the local office and the applicant have made every reasonable effort to secure necessary information which has not been supplied by the date the time limit expired; or because of emergency situations, such as fire, flood or other conditions beyond the administrative control of the local office. When eligibility is dependent upon the birth of a child the time limit may be extended while awaiting the birth of the child. When it becomes evident that due to an error on the part of the local office, eligibility will not be established within the 30-day limit, the application shall be approved pending a determination of eligibility.

This rule is intended to implement Iowa Code sections 239B.4, 239B.5 and 239B.6.

**441—40.26(239B) Effective date of grant.** New approvals shall be effective as of the date the applicant becomes eligible for assistance, but in no case shall the effective date be earlier than seven days following the date of application. When an individual is added to an existing eligible group, the individual shall be added effective as of the date the individual becomes eligible for assistance, but in no case shall the effective date be earlier than seven days following the date the change is reported. When it is reported that a person is anticipated to enter the home, the effective date of assistance shall be no earlier than the date of entry or seven days following the date of report, whichever is later.

When the change is timely reported as described at subrule 40.27(4), a payment adjustment shall be made when indicated. When the individual's presence is not timely reported as described at subrule 40.27(4), excess assistance issued is subject to recovery.

In those instances where a person previously excluded from the eligible group as described at 441—subrule 41.27(11) is to be added to the eligible group, the effective date of eligibility shall be seven days following the date the person indicated willingness to cooperate. However, in no instance shall the person be added until cooperation has actually occurred.

EXCEPTIONS: When adding a person who was previously excluded from the eligible group for failing to comply with 441—subrule 41.22(13), the effective date of eligibility shall be seven days following the date that the social security number or proof of application for a social security number is provided.

When adding a person who was previously excluded from the eligible group as described at 441—subrules 41.25(5) and 46.28(2) and rule 441—46.29(239B), the effective date of eligibility shall be seven days following the date that the period of ineligibility ended.

When adding a person who was previously excluded from the eligible group as described at 441—subrule 41.24(8), the effective date of eligibility shall be seven days following the date the person signs a family investment agreement. In no case shall the effective date be within the six-month ineligibility period of a subsequent limited benefit plan as described at 441—paragraph 41.24(8)*"a."*

This rule is intended to implement Iowa Code section 239B.3.

**441—40.27(239B) Continuing eligibility.**

**40.27(1)** Eligibility factors shall be reviewed at least every six months for the family investment program. A semiannual review shall be conducted using information contained in and verification supplied with Form PA-2140-0, Public Assistance Eligibility Report. A face-to-face interview shall be conducted at least annually at the time of a review using information contained in and verification supplied with Form 470-2881, Review/ Recertification Eligibility Document. When the client has completed Form PA-2207-0, Public Assistance Application, or Form PA-2230-0 (Spanish), for another purpose required by the department, this form may be used as the review document for the semiannual or annual review.

*a.* Any assistance unit with one or more of the following characteristics shall report monthly:

(1) The assistance unit contains any member with earned income, unless the income is either exempt or the only earned income is from annualized self-employment.

(2) The assistance unit contains any member with a recent work history. A recent work history means the person received earned income during either one of the two calendar months immediately preceding the budget month, unless the income was either exempt or the only earned income was from annualized self-employment.

*c.* The recipient shall supply, insofar as the recipient is able, additional information needed to establish eligibility and the amount of the family investment program grant within five working days from the date a written request is mailed by the county office to the recipient's current mailing address or given to the recipient. The county office shall extend the deadline when the recipient requests an extension because the recipient is making every effort to supply the information or verification but is unable to do so. "Supply" shall mean the requested information is received by the department by the specified due date. The recipient shall give written permission for release of information when the recipient is unable to furnish information needed to establish eligibility and the amount of the family investment program grant. Failure to supply the information or refusal to authorize the county office to secure the information from other sources shall serve as a basis for cancellation of assistance.

*d.* The recipient or applicant shall cooperate with the department when the recipient's or applicant's case is selected by quality control for verification of eligibility. The recipient or applicant shall also cooperate with the front end investigations conducted by the department of inspections and appeals to determine whether information supplied to the department by the client is complete and correct regarding pertinent public assistance information unless the investigation revolves solely around the circumstances of a person whose income and resources do not affect family investment program eligibility. (See department of inspections and appeals rules 481—Chapter 72.) Failure to cooperate shall serve as a basis for cancellation or denial of the family's assistance. Once denied or canceled for failure to cooperate, the family may reapply but shall not be considered for approval until cooperation occurs.

*e.* The recipient, or an individual being added to the existing eligible group, shall timely report any change in the following circumstances:

(1) Income from all sources, including any change in care expenses.

(2) Resources.

(3) Members of the household.

(4) School attendance.

(5) Becoming incapacitated or recovery from incapacity.

(6) Change of mailing or living address.

(7) Payment of child support.

(8) Rescinded IAB 2/5/92, effective 4/1/92.

(9) Receipt of a grant that exceeds the amount on the most recent notice from the department by $10 or more or receipt of a duplicate grant.

(10) Receipt of a social security number.

(11) Payment for child support, alimony, or dependents as defined in 441—paragraph 41.27(8)*"b"* and 441—subrule 41.27(10).

*f.* A report shall be considered timely when made within ten days from:

(1) The receipt of resources, income, or increased or decreased income.

(2) The date care expenses increase or decrease.

(3) The date the address changes.

(4) The date the child is officially dropped from the school rolls.

(5) The date a person enters or leaves the household.

(6) The date medical or psychological evidence indicates a person becomes incapacitated or recovers from incapacity.

(7) The date the client increases or decreases child support payments.

(8) Rescinded IAB 2/5/92, effective 4/1/92.

(9) The date the recipient receives a grant that exceeds the amount on the most recent notice from the department by $10 or more or a duplicate grant.

(10) The receipt of a social security number.

(11) The date a person described in 441—paragraph 41.27(8)*"b"* or *"c"* or a sponsor increases or decreases payments for child support, alimony or dependents.

*g.* When a change is not timely reported, any excess assistance paid shall be subject to recovery.

**40.27(5)** After assistance has been approved, eligibility for continuing assistance and the amount of the grant shall be effective as of the first of each month. Any change affecting eligibility reported during a month shall be effective the first day of the next calendar month and any change affecting the amount of assistance shall be effective for the corresponding payment month except:

*a.* When the recipient reports a new person to be added to the eligible group, and that person meets eligibility requirements, a payment adjustment shall be made for the month of report, subject to the effective date of grant limitations prescribed in 441—40.26(239B).

*b.* When it is timely reported income ended during one of the initial two months of eligibility and a grant adjustment could not be made effective the first of the following month in accordance with 441—subparagraph 41.27(9)*"b"*(1), a payment adjustment shall be made.

*c.* When verification of an income deduction, diversions, or deposit into an individual development account is provided before the end of the report month or the extended filing date described at 40.22(5)*"c,"* whichever is later, but too late for a grant adjustment to be made effective the first of the following month, a payment adjustment shall be made.

*d.* When cancellation of assistance is later in those cases where issuance of a timely notice, as required by 441—7.6(217), requires that the action be delayed until the first day of the second calendar month. Any overpayment received in the first calendar month shall be recouped.

*e.* Any change not reported prospectively in the budget month and reported on the monthly report form shall be effective for the corresponding payment month. When the change creates ineligibility for more than one month, the payment made in the report month shall be recouped.

*f.* When the recipient timely reports, as defined in 40.24(1) or 40.27(4), a change in income or circumstances during the first initial month of eligibility, prospective eligibility and grant amount for the second initial month shall be determined based on the change. A payment adjustment shall be made when indicated. Recoupment shall be made for any overpayment regardless of when the change is reported.

*g.* When an individual included in the eligible group becomes ineligible, that individual's needs shall be removed prospectively effective the first of the next month. When the action must be delayed due to administrative requirements a payment adjustment or recoupment shall be made when appropriate.

*h.* When specifically indicated otherwise in these rules, such as in 441—subrule 41.25(5) and 441—subparagraph 41.27(9)*"c"*(2).

*i.* When a sanction under 441— subrule 41.25(8) is implemented or removed, the change shall be effective the first of the next calendar month after notification as described in that subrule has been received.

*j.* When a sanction under 441—paragraph 41.22(6)*"f"* is implemented, the change shall be effective the first of the next calendar month after the change has occurred when income maintenance determines noncooperation or after income maintenance receives notification from the child support recovery unit (CSRU) when CSRU determines noncooperation. When the sanction is removed, the change shall be effective the first of the next calendar month after the recipient has expressed willingness to cooperate as described in 441—paragraph 41.22(6)*"f."* However, action to remove the sanction shall be delayed until cooperation has actually occurred or until notification has been received from CSRU that the client has cooperated.

This rule is intended to implement Iowa Code sections 239B.2, 239B.3, 239B.5, 239B.6 and 239B.18.

**441—40.28(239B) Referral for investigation.** The local office may refer questionable cases to the department of inspections and appeals for further investigation. Referrals shall be made using Form 427-0328, Referral For Front End Investigation.

This rule is intended to implement Iowa Code section 239B.5.

**441—40.29(239B) Conversion to the X-PERT system.** For conversion to the X-PERT system at a time other than review, the recipient may be required to provide additional information. To obtain this information, a recipient may be required to appear for a face-to-face interview. Failure to appear for this interview when so requested, or failure to provide requested information, shall result in cancellation.

These rules are intended to implement Iowa Code chapter 239B.

[Filed June 23, 1955; amended August 30, 1972, June 3, 1975, June 27, 1975]
[Filed 9/29/76, Notice 8/23/76—published 10/20/76, effective 11/24/76]
[Filed 8/18/77, Notice 6/15/77—published 9/7/77, effective 10/12/77]
[Filed 8/9/78, Notice 6/28/78—published 9/6/78, effective 11/1/78]
[Filed 1/4/79, Notice 11/29/78—published 1/24/79, effective 3/1/79]
[Filed emergency after Notice 9/6/79, Notice 7/11/79—published 10/3/79, effective 10/1/79]
[Filed 10/24/79, Notice 8/22/79—published 11/14/79, effective 1/1/80]
[Filed emergency 6/30/80—published 7/23/80, effective 7/1/80]
[Filed 12/19/80, Notice 10/29/80—published 1/7/81, effective 2/11/81]
[Filed without Notice 3/24/81—published 4/15/81, effective 6/1/81]
[Filed emergency 6/30/81—published 7/22/81, effective 7/1/81]
[Filed 6/30/81, Notice 4/29/81—published 7/22/81, effective 9/1/81]
[Filed emergency 9/25/81—published 10/14/81, effective 10/1/81]
[Filed emergency 10/23/81—published 11/11/81, effective 11/1/81]
[Filed 6/15/82, Notice 3/17/82—published 7/7/82, effective 9/1/82]
[Filed emergency 7/1/82—published 7/21/82, effective 7/1/82]
[Filed 7/1/82, Notice 4/28/82—published 7/21/82, effective 9/1/82]
[Filed 9/1/83, Notice 6/22/83—published 9/28/83, effective 11/2/83]
[Filed emergency 12/16/83—published 1/4/84, effective 1/1/84]
[Filed 12/16/83, Notice 11/9/83—published 1/4/84, effective 2/8/84]
[Filed 5/4/84, Notice 2/29/84—published 5/23/84, effective 7/1/84]
[Filed emergency 9/28/84—published 10/24/84, effective 10/1/84]
[Filed without Notice 9/28/84—published 10/24/84, effective 12/1/84]
[Filed 9/28/84, Notice 8/15/84—published 10/24/84, effective 12/1/84]
[Filed 12/11/84, Notice 10/10/84—published 1/2/85, effective 3/1/85]
[Filed emergency 1/21/85—published 2/13/85, effective 2/1/85]
[Filed 3/22/85, Notice 2/13/85—published 4/10/85, effective 6/1/85]
[Filed 4/29/85, Notice 10/24/84—published 5/22/85, effective 7/1/85]
[Filed 7/26/85, Notice 6/5/85—published 8/14/85, effective 10/1/85]
[Filed 11/15/85, Notice 10/9/85—published 12/4/85, effective 2/1/86]
[Filed emergency 5/28/86 after Notice 4/9/86—published 6/18/86, effective 6/1/86]
[Filed emergency 7/25/86 after Notice 6/4/86—published 8/13/86, effective 8/1/86]
[Filed 9/3/86, Notice 7/2/86—published 9/24/86, effective 11/1/86]
[Filed 10/17/86, Notice 8/27/86—published 11/5/86, effective 1/1/87]
[Filed 11/14/86, Notice 10/8/86—published 12/3/86, effective 2/1/87]

[Filed emergency 1/15/87—published 2/11/87, effective 1/15/87]
[Filed 9/24/87, Notice 8/12/87—published 10/21/87, effective 12/1/87]
[Filed 2/17/88, Notice 12/30/87—published 3/9/88, effective 6/1/88]
[Filed 4/13/89, Notice 3/8/89—published 5/3/89, effective 7/1/89]
[Filed emergency 6/29/89 after Notice 5/3/89—published 7/26/89, effective 7/1/89]
[Filed 12/15/89, Notice 7/26/89—published 1/10/90, effective 3/1/90]
[Filed 4/13/90, Notice 3/7/90—published 5/2/90, effective 7/1/90]
[Filed 7/10/91, Notice 5/29/91—published 8/7/91, effective 10/1/91]
[Filed without Notice 9/18/91—published 10/16/91, effective 11/21/91]
[Filed emergency 10/10/91—published 10/30/91, effective 11/21/91]
[Filed 1/16/92, Notice 9/18/91—published 2/5/92, effective 4/1/92]
[Filed 1/29/92, Notice 10/16/91—published 2/19/92, effective 3/25/92]
[Filed emergency 6/11/92 after Notice 4/15/92—published 7/8/92, effective 7/1/92]
[Filed 7/17/92, Notice 6/10/92—published 8/5/92, effective 10/1/92]
[Filed emergency 9/17/93—published 10/13/93, effective 10/1/93]
[Filed 12/16/93, Notice 10/13/93—published 1/5/94, effective 3/1/94]
[Filed 2/16/95, Notice 11/23/94—published 3/15/95, effective 5/1/95]
[Filed 8/15/96, Notice 5/8/96—published 9/11/96, effective 11/1/96]
[Filed emergency 1/15/97—published 2/12/97, effective 3/1/97]
[Filed 4/11/97, Notice 2/12/97—published 5/7/97, effective 7/1/97]
[Filed 11/12/97, Notice 9/10/97—published 12/3/97, effective 2/1/98]
[Filed 11/12/97, Notice 9/10/97—published 12/3/97, effective 3/1/98]
[Filed emergency 1/14/98 after Notice 11/19/97—published 2/11/98, effective 2/1/98]
[Filed 6/10/98, Notice 5/6/98—published 7/1/98, effective 9/1/98]
[Filed 3/10/99, Notice 11/18/98—published 4/7/99, effective 5/31/99]
[Filed 6/10/99, Notice 4/21/99—published 6/30/99, effective 9/1/99]

*b.* Conciliation for volunteers shall be provided by a conciliation unit established by the PROMISE JOBS local service delivery area. PROMISE JOBS staff from DWD shall conciliate in cases decided by JTPA workers and PROMISE JOBS staff from JTPA shall conciliate in cases decided by DWD workers. The bureau of refugee services shall arrange with PROMISE JOBS staff of DWD and JTPA to provide conciliation services when the need arises. If the local service delivery area has developed interagency teams of PROMISE JOBS staff, teams shall be assigned to conciliate in cases decided by other teams.

(1) When the PROMISE JOBS worker determines that an exempt volunteer, after signing the FIA, has chosen not to carry out the activities or responsibilities of the FIA, the worker shall notify the conciliation unit of the PROMISE JOBS local service delivery area. This notice shall include documentation of the issues of participation or problems of participation which have not been resolved. The conciliation unit shall review the material to determine if the nonfinancial sanction of loss of priority service is applicable. If the conciliation unit disagrees with the PROMISE JOBS worker, the conciliation unit shall contact the worker to resolve the issue. If the conciliation unit agrees with the PROMISE JOBS worker, the conciliation unit shall initiate a 30-day conciliation period by issuing the Notice of Potential Sanction—Exempt Volunteers, Form 470-2667, to the participant. During this 30-day period, the participant can present additional information to the conciliation unit to resolve the issues of participation or problems with participation, or identify barriers to participation which should be addressed in the FIA. If the conciliation unit finds that the participant has chosen not to carry out the activities or responsibilities of the FIA, a nonfinancial sanction of loss of priority service shall be imposed. The conciliation period begins the day following the day the Notice of Potential Sanction—Exempt Volunteers is issued.

(2) If the participant presents additional information which indicates resolution of issues of participation or problems with participation, or which indicates a barrier to participation which will be addressed in the FIA, the conciliation unit shall review these with the PROMISE JOBS worker, with conciliation staff having the final say. If the issues and problems are not resolved, barriers to participation are not identified, or the participant indicates unwillingness to include the barriers to participation in a renegotiated FIA, the conciliation unit shall notify the PROMISE JOBS worker to apply the loss of priority services sanction.

**41.24(10)** *Notification of services.*

*a.* The department shall inform all applicants for and recipients of FIP of the advantages of employment under FIP.

*b.* The department shall provide a full explanation of the family rights, responsibilities, and obligations under PROMISE JOBS and the FIA, with information on the time-limited nature of the agreement.

*c.* The department shall provide information on the employment, education and training opportunities, and support services to which they are entitled under PROMISE JOBS, as well as the obligations of the department. This information shall include explanations of child care assistance and transitional Medicaid.

*d.* The department shall inform applicants for and recipients of FIP benefits of the grounds for exemption from FIA responsibility and from participation in the PROMISE JOBS program.

*e.* The department shall explain the LBP and the process by which FIA-responsible persons and mandatory PROMISE JOBS participants can choose the LBP or individual LBP.

*f.* The department shall inform all applicants for and recipients of FIP of their responsibility to cooperate in establishing paternity and enforcing child support obligations.

*g.* Within 30 days of the date of application for FIP, the department shall notify the applicant or recipient of the opportunity to volunteer for the program. Notification shall include a description of the procedure to be used in volunteering for the program.

**41.24(11)** *Implementation.* A limited benefit plan imposed effective on or after June 1, 1999, shall be imposed according to the revised rules becoming effective on that date. A limited benefit plan imposed effective on or before May 1, 1999, shall be imposed subject to the previous rules for the limited benefit plan. For a person who is in a limited benefit plan on May 1, 1999, the terms of the person's existing limited benefit plan shall continue until that limited benefit plan either ends or is lifted in accordance with previous limited benefit plan rules. A participant who chose a limited benefit plan under the previous policy and who then chooses a limited benefit plan that becomes effective on or after June 1, 1999, shall be subject to a subsequent limited benefit plan under the provisions of the revised rules.

**441—41.25(239B) Uncategorized factors of eligibility.**

**41.25(1)** *Divesting of income.* Assistance shall not be approved when an investigation proves that income was divested and the action was deliberate and for the primary purpose of qualifying for assistance or increasing the amount of assistance paid.

**41.25(2)** *Duplication of assistance.* A recipient whose needs are included in a family investment program grant shall not concurrently receive a grant under any other public assistance program administered by the department, including IV-E foster care, or state-funded foster care. A recipient shall not concurrently receive the family investment program and subsidized adoption unless exclusion of the person from the FIP grant will reduce benefits to the family. Neither shall a recipient concurrently receive a grant from a public assistance program in another state. When a recipient leaves the home of a specified relative, no payment for a concurrent period shall be made for the same recipient in the home of another relative.

**41.25(3)** *Aid from other funds.* Supplemental aid from any other agency or organization shall be limited to aid for items of need not covered by the department's standards and to the amount of the percentage reduction used in determining the payment level. Any duplicated assistance shall be considered unearned income.

**41.25(4)** *Contracts for support.* A person entitled to total support under the terms of an enforceable contract is not eligible to receive the family investment program when the other party, obligated to provide the support, is able to fulfill that part of the contract.

**41.25(5)** *Participation in a strike.*

*a.* The family of any parent with whom the child(ren) is living shall be ineligible for the family investment program for any month in which the parent is participating in a strike on the last day of the month.

*b.* Any individual shall be ineligible for the family investment program for any month in which the individual is participating in a strike on the last day of that month.

*c.* Definitions:

(1) A strike is a concerted stoppage of work by employees (including a stoppage by reason of expiration of a collective bargaining agreement) and any concerted slowdown or other concerted interruption of operations by employees.

(2) An individual is not participating in a strike at the individual's place of employment when the individual is not picketing and does not intend to picket during the course of the dispute, does not draw strike pay, and provides a signed statement that the individual is willing and ready to return to work but does not want to cross the picket line solely because of the risk of personal injury or death or trauma from harassment. The district administrator shall determine whether such a risk to the individual's physical or emotional well-being exists.

*d.* If the parties to an attendance cooperation meeting determine that a monitor would improve compliance with the attendance cooperation agreement, the parties may designate a person to monitor the agreement. The monitor shall be a designee of the department. The monitor may be a volunteer if the volunteer is approved by all parties to the agreement and receives a written authorization for access to confidential information and for performing monitor activities from the child's parent or specified relative. A monitor shall contact parties to the attendance cooperation agreement on a periodic basis as appropriate to monitor the performance of the agreement.

*e.* If the parties fail to enter into an attendance cooperation agreement, or the child's parent or specified relative acting as a party violates a term of the attendance cooperation agreement or fails to participate in an attendance cooperation meeting without good cause, and the truancy officer confirms that the child still meets the conditions for being deemed truant, then the child shall be deemed to be truant.

The parent or specified relative shall be considered to have good cause when failing to attend the meeting for reasons beyond the person's control, such as illness, family emergencies or other unforeseen circumstances.

*f.* If the department receives written notification from a school truancy officer under 1997 Iowa Acts, House File 597, section 5, that a child receiving family investment program assistance is deemed to be truant, the child's family shall be subject to sanction as provided in paragraph *"g."* The sanction shall continue to apply until the department receives written notification from the school truancy officer of any of the following:

(1) The child is complying with the attendance policy applicable to the child's school.

(2) The child has satisfactorily completed educational requirements through the sixth grade.

(3) The child's school has determined there is good cause for the child's nonattendance and the school withdraws the written notification.

(4) The child is no longer enrolled in the school for which the written notification was provided and the child's family demonstrates that the child is enrolled in and is attending another school or is otherwise receiving equivalent schooling as authorized under state law.

*g.* The sanction shall be a deduction of 25 percent from the net cash assistance grant amount payable to the child's family prior to any deduction for recoupment of a prior overpayment. If more than one child is deemed to be truant, the sanction shall continue to apply until the department receives written notification from the school truancy officer, as described in paragraph *"f,"* concerning each child. When the family is also subject to sanction under paragraph 41.22(6)*"f,"* the sanction for truancy shall be calculated as though the sanction in paragraph 41.22(6)*"f"* does not exist.

**41.25(9)** *Pilot diversion programs.* Assistance shall not be approved when an assistance unit is subject to a period of ineligibility as described at 441—Chapter 47.

**41.25(10)** *Fugitive felons, and probation and parole violators.* Assistance shall be denied to a person who is (1) convicted of a felony under state or federal law and is fleeing to avoid prosecution, custody or confinement, or (2) violating a condition of probation or parole imposed under state or federal law. The prohibition does not apply to conduct pardoned by the President of the United States, beginning with the month after the pardon is given.

This rule is intended to implement Iowa Code chapter 239B and 1997 Iowa Acts, House File 597.

**441—41.26(239B) Resources.**

**41.26(1)** *Limitation.* An applicant or recipient may have the following resources and be eligible for the family investment program. Any resource not specifically exempted shall be counted toward resource limitations.

*a.* A homestead without regard to its value. A mobile home or similar shelter shall be considered as a homestead when it is occupied by the recipient. Temporary absence from the homestead with a defined purpose for the absence and with intent to return when the purpose of the absence has been accomplished shall not be considered to have altered the exempt status of the homestead. Except as described at 41.26(1)*"n"* or *"o"* and 41.26(6)*"d,"* the net market value of any other real property shall be considered with personal property.

*b.* Household goods and personal effects without regard to their value. Personal effects are personal or intimate tangible belongings of an individual, especially those that are worn or carried on the person, which are maintained in one's home, and include clothing, books, grooming aids, jewelry, hobby equipment, and similar items.

*c.* Life insurance which has no cash surrender value. The owner of the life insurance policy is the individual paying the premium on the policy with the right to change the policy as the individual sees fit.

*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 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.

*e.* A reserve of other property, real or personal, not to exceed $2000 for applicant assistance units and $5000 for recipient assistance units. EXCEPTION: Applicant assistance units with at least one member who was a recipient in Iowa in the month prior to the month of application are subject to the $5000 limit. The exception includes those persons who did not receive an assistance grant due to the $10 grant limitation described at rule 441—45.26(239B) and persons whose grants were suspended as in 41.27(9)*"f"* in the month prior to the month of application.

Resources of the applicant or the recipient shall be determined in accordance with subrule 41.26(2).

*f.* Money which is counted as income in a month, during that same month; and that part of lump sum income defined in 41.27(9)*"c"*(2) reserved for the current or future month's income.

*g.* Payments which are exempted for consideration as income and resources under subrule 41.27(6).

*h.* An equity not to exceed $1,500 in one funeral contract or burial trust for each member of the eligible group. Any amount in excess of $1,500 shall be counted toward resource limitations unless it is established that the funeral contract or burial trust is irrevocable.

*i.* One burial plot for each member of the eligible group. A burial plot is defined as a conventional gravesite, crypt, mausoleum, urn, or other repository which is customarily and traditionally used for the remains of a deceased person.

*j.* Settlements for payment of medical expenses.

*k.* Life estates.

*l.* Earned income credit payments in the month of receipt and the following month, regardless of whether these payments are received with the regular paychecks or as a lump sum with the federal income tax refund.

*m.* The balance in an individual development account (IDA), including interest earned on the IDA.

*n.* An equity not to exceed $10,000 for tools of the trade or capital assets of self-employed households.

When the value of any resource is exempted in part, that portion of the value which exceeds the exemption shall be considered in computing whether the eligible group's property is within the reserve defined in paragraph *"e."*

*o.* Nonhomestead property that produces income consistent with the property's fair market value.

**41.26(2)** *Persons considered.*

*a.* Resources of persons in the eligible group shall be considered in establishing property limitations.

*b.* Resources of the parent who is living in the home with the eligible child(ren) but whose needs are excluded from the eligible group shall be considered in the same manner as if the parent were included in the eligible group.

*c.* Resources of the stepparent living in the home shall not be considered when determining eligibility of the eligible group, with one exception: The resources of a stepparent included in the eligible group shall be considered in the same manner as a parent.

*d.* The resources of supplemental security income recipients shall not be counted in establishing property limitations.

*e.* The resources of a nonparental relative who elects to be included in the eligible group shall be considered in the same manner as a parent.

*f.* When a sponsor is financially responsible for an alien according to subrule 41.7(10), the resources of the sponsor or sponsor's spouse receiving supplemental security income or the family investment program shall not be considered in determining an alien's resource limitation.

*g.* Resources applied to sponsored aliens shall not be considered in determining the needs of unsponsored members of the alien's family except to the extent the resources are actually available.

**41.26(3)** *Homestead defined.* The homestead consists of the house, used as a home, and may contain one or more contiguous lots or tracts of land, including buildings and appurtenances. When within a city plat, it shall not exceed ½-acre in area. When outside a city plat it shall not contain, in the aggregate, more than 40 acres. When property used as a home exceeds these limitations, the equity value of the excess property shall be determined in accordance with subrule 41.26(5).

**41.26(4)** *Liquidation.* When proceeds from the sale of resources or conversion of a resource to cash, together with other nonexempted resources, exceed the property limitations, the recipient is ineligible to receive assistance until the amount in excess of the resource limitation has been expended unless immediately used to purchase a homestead, or reduce the mortgage on a homestead.

*a.* Property settlements. Property settlements which are part of a legal action in a dissolution of marriage or palimony suit are considered as resources upon receipt.

*b.* Property sold under installment contract. Property sold under an installment contract or held as security in exchange for a price consistent with its fair market value is exempt as a resource. If the price is not consistent with the contract's fair market value, the resource value of the installment contract is the gross price for which it can be sold or discounted on the open market, less any legal debts, claims, or liens against the installment contract.

Payments from property sold under an installment contract are exempt as income as specified in paragraphs 41.27(1)*"f"* and 41.27(7)*"ah."* The portion of any payment received representing principal is considered a resource upon receipt. The interest portion of the payment is considered a resource the month following the month of receipt.

**41.26(5)** *Net market value defined.* Net market value is the gross price for which property or an item can currently be sold on the open market, less any legal debts, claims, or liens against the property or item.

**41.26(6)** *Availability.*

*a.* A resource must be available in order for it to be counted toward resource limitations. A resource is considered available under the following circumstances:

(1) The applicant/recipient owns the property in part or in full and has control over it; that is, it can be occupied, rented, leased, sold, or otherwise used or disposed of at the individual's discretion.

(2) The applicant/recipient has a legal interest in a liquidated sum and has the legal ability to make the sum available for support and maintenance.

*b.* Rescinded IAB 6/30/99, effective 9/1/99.

*c.* When property is owned by more than one person, unless otherwise established, it is assumed that all individuals hold equal shares in the property.

*d.* When the applicant or recipient owns nonhomestead property, the property shall be considered exempt for so long as the property is publicly advertised for sale at an asking price that is consistent with its fair market value.

**41.26(7)** *Damage judgments and insurance settlements.*

*a.* Payment resulting from damage to or destruction of an exempt resource shall be considered a resource to the applicant/recipient the month following the month the payment was received. When the applicant/recipient signs a legal binding commitment no later than the month after the month the payment was received, the funds shall be considered exempt for the duration of the commitment providing the terms of the commitment are met within eight months from the date of commitment.

*b.* Payment resulting from damage to or destruction of a nonexempt resource shall be considered a resource in the month following the month in which payment was received.

**41.26(8)** *Trusts.* The department shall determine whether assets from a trust or conservatorship, except one established solely for the payment of medical expenses, are available by examining the language of the trust agreement or order establishing a conservatorship.

*a.* Funds clearly conserved and available for care, support, or maintenance shall be considered toward resource or income limitations.

*b.* When the local office questions whether the funds in a trust or conservatorship are available, the local office shall refer the trust or conservatorship to central office. When assets in the trust or conservatorship are not clearly available, central office staff may contact the trustee or conservator and request that the funds in the trust or conservatorship be made available for current support and maintenance. When the trustee or conservator chooses not to make the funds available, the department may petition the court to have the funds released either partially or in their entirety or as periodic income payments. Funds in a trust or conservatorship that are not clearly available shall be considered unavailable until the trustee, conservator or court actually makes the funds available. Payments received from the trust or conservatorship for basic or special needs are considered income.

**41.26(9)** *Aliens sponsored by individuals.* When a sponsor is financially responsible for an alien according to subrule 41.27(10), the resources of the sponsor and the sponsor's spouse in excess of $1500 shall be applied to the alien's resource limitation.

*a.* When a person described in subrule 41.27(10) sponsors two or more aliens who apply for assistance on or after November 1, 1981, the resources of the sponsor and the sponsor's spouse in excess of $1500 shall be divided equally among the aliens.

*b.* The resources of a sponsor or sponsor's spouse receiving supplemental security income or the family investment program shall be treated in accordance with subrule 41.26(2).

*c.* Notwithstanding anything to the contrary in these rules or regulations, the resources of a sponsor who executed an affidavit of support pursuant to Section 213 of the Immigration and Nationality Act (as implemented by the Personal Responsibility and Work Reconciliation Act of 1996) on behalf of the alien and the resources of the sponsor's spouse shall be counted in their entirety when determining eligibility and benefit level for a sponsored alien who entered the United States on or after August 22, 1996.

**41.26(10)** *Not considered a resource.* Inventories and supplies, exclusive of capital assets, that are required for self-employment shall not be considered a resource. Inventory is defined as all unsold items, whether raised or purchased, that are held for sale or use and shall include, but not be limited to, merchandise, grain held in storage and livestock raised for sale. Supplies are items necessary for the operation of the enterprise, such as lumber, paint and seed. Capital assets are those assets which, if sold at a later date, could be used to claim capital gains or losses for federal income tax purposes. When self-employment is temporarily interrupted due to circumstances beyond the control of the household, such as illness, and inventory or supplies retained by the household shall not be considered a resource.

This rule is intended to implement Iowa Code section 239B.5.

**441—41.27(239B) Income.** All unearned and earned income, unless specifically exempted, disregarded, deducted for work expenses, or diverted as defined in these rules, shall be considered in determining initial and continuing eligibility and the amount of the family investment program grant. The determination of initial eligibility is a three-step process. Initial eligibility shall be granted only when (1) the countable gross nonexempt unearned and earned income, exclusive of the family investment program grant, received by the eligible group and available to meet the current month's needs is no more than 185 percent of the standard of need for the eligible group; (2) the countable net unearned and earned income is less than the standard of need for the eligible group; and (3) the countable net unearned and earned income, after applying allowable disregards, is less than the payment standard for the eligible group. The determination of continuing eligibility is a two-step process. Continuing eligibility shall be granted only when (1) countable gross nonexempt income, as described for initial eligibility, does not exceed 185 percent of the standard of need for the eligible group; and (2) countable net unearned and earned income is less than the payment standard for the eligible group. The amount of the family investment program grant shall be determined by subtracting countable net income from the payment standard for the eligible group. Child support assigned to the department in accordance with subrule 41.22(7) and retained by the department as described in subparagraph 41.27(1)*"h"*(2) shall be considered as exempt income for the purpose of determining continuing eligibility, including child support as specified in paragraphs 41.22(7)*"b"* and 41.27(7)*"q."* Expenses for care of disabled adults, deductions, and diversions shall be allowed when verification is provided. The county office shall return all verification to the applicant or recipient.

**41.27(1)** *Unearned income.* Unearned income is any income in cash that is not gained by labor or service. When taxes are withheld from unearned income, the amount considered will be the net income after the withholding of taxes (federal insurance contribution Act, state and federal income taxes). Net unearned income, from investment and nonrecurring lump sum payments, shall be determined by deducting reasonable income producing costs from the gross unearned income. Money left after this deduction shall be considered gross income available to meet the needs of the eligible group.

*a.* Social security income is the amount of the entitlement before withholding of a Medicare premium.

*b.* Rescinded, effective December 1, 1986.

*c.* Rescinded, effective September 1, 1980.

*d.* Rescinded IAB 2/11/98, effective 2/1/98.

*e.* Rescinded IAB 2/11/98, effective 2/1/98.

*f.* When the applicant or recipient sells property on contract, proceeds from the sale shall be considered exempt as income. The portion of any payment that represents principal is considered a resource upon receipt as defined in 41.26(4). The interest portion of the payment is considered a resource the month following the month of receipt.

*g.* Every person in the eligible group shall apply for benefits for which that person may be qualified and accept those benefits, even though the benefit may be reduced because of the laws governing a particular benefit. The needs of any individual who refuses to cooperate in applying for or accepting benefits from other sources shall be removed from the eligible group. The individual is eligible for the 50 percent work incentive deduction in paragraph 41.27(2)*"c."*

*h.* Support payments in cash shall be considered as unearned income in determining initial and continuing eligibility.

(1) Any nonexempt cash support payment for a member of the eligible group, made while the application is pending, shall be treated as unearned income and deducted from the initial assistance grant(s). Any cash support payment for a member of the eligible group, except as described at 41.27(7)*"p"* and *"q,"* received by the recipient after the date of decision as defined in 441—subrule 40.24(4) shall be refunded to the child support recovery unit.

(2) Assigned support collected in a month and retained by child support recovery shall be exempt as income for determining prospective or retrospective eligibility. Participants shall have the option of withdrawing from FIP at any time and receiving their child support direct.

(3) and (4) Rescinded IAB 12/3/97, effective 2/1/98.

*i.* The applicant or recipient shall cooperate in supplying verification of all unearned income. When the information is available, the local office shall verify job insurance benefits by using information supplied to the department by the department of workforce development. When the local office uses this information as verification, job insurance benefits shall be considered received the second day after the date that the check was mailed by workforce development. When the second day falls on a Sunday or federal legal holiday, the time shall be extended to the next mail delivery day. When the client notifies the local office that the amount of job insurance benefits used is incorrect, the client shall be allowed to verify the discrepancy. A payment adjustment shall be made when indicated. Recoupment shall be made for any overpayment. The client must report the discrepancy prior to the payment month or within ten days of the date on the Notice of Decision, Form PA-3102-0, applicable to the payment month, whichever is later, in order to receive a payment adjustment.

*j.* Every person in the eligible group shall apply for and accept health or medical insurance when it is available at no cost to the applicant or recipient, or when the cost is paid by a third party, including the department of human services. The needs of any individual who refuses to cooperate in applying for or accepting this insurance shall be removed from the eligible group. The individual is eligible for the 50 percent work incentive deduction in paragraph 41.27(2)*"c."*

**41.27(2)** *Earned income.* Earned income is defined as income in the form of a salary, wages, tips, bonuses, commission earned as an employee, income from Job Corps or profit from self-employment. Earned income from commissions, wages, tips, bonuses, Job Corps, or salary means the total gross amount irrespective of expenses of employment. With respect to self-employment, earned income means the profit determined by comparing gross income with the allowable costs of producing the income. Income shall be considered earned income when it is produced as a result of the performance of services by an individual.

*a.* Each person in the assistance unit whose gross nonexempt earned income, earned as an employee or net profit from self-employment, is considered in determining eligibility and the amount of the assistance grant is entitled to one 20 percent earned income deduction of nonexempt monthly gross earnings. The deduction is intended to include all work-related expenses other than child care. These expenses shall include, but are not limited to, all of the following: taxes, transportation, meals, uniforms, and other work-related expenses.

*b.* Each person in the assistance unit is entitled to a deduction for care expenses subject to the following limitations:

Persons in the eligible group and excluded parents, other than parents described at 41.23(4)*"a"*(3), shall be allowed care expenses for an incapacitated adult in the eligible group.

(1) Care for an incapacitated adult shall be considered a work expense in the amount paid for care for the individual, not to exceed $175 per month or the going rate in the community, whichever is less.

(2) Rescinded IAB 6/30/99, effective 9/1/99.

(3) The deduction is allowable only when the care covers the actual hours of the individual's employment plus a reasonable period of time for commuting; or the period of time when the individual who would normally care for the incapacitated adult is employed at such hours that the individual is required to sleep during the waking hours of the incapacitated adult.

(4) Any special needs of a physically or mentally handicapped adult shall be taken into consideration in determining the deduction allowed.

(5) The expense shall be verified by receipt or a statement from the provider of care and shall be allowed when paid to any person except another member of the assistance unit or any person whose needs are met by diversion of income from any person in the assistance unit.

*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).

*d.* Rescinded IAB 6/30/99, effective 9/1/99.

*e.* Rescinded IAB 9/11/96, effective 11/1/96.

*f.* to *i.* Reserved.

*j.* A person is considered self-employed when the person:

(1) Is not required to report to the office regularly except for specific purposes such as sales training meetings, administrative meetings, or evaluation sessions.

(2) Establishes the person's own working hours, territory, and methods of work.

(3) Files quarterly reports of earnings, withholding payments, and FICA payments to the Internal Revenue Service.

*k.* The net profit from self-employment income in a nonhome based operation shall be determined by deducting only the following expenses that are directly related to the production of the income:

(1) The cost of inventories and supplies purchased that are required for the business, such as items for sale or consumption and raw materials.

(2) Wages, commissions, and mandated costs relating to the wages for employees of the self-employed.

(3) The cost of shelter in the form of rent; the interest on mortgage or contract payments; taxes; and utilities.

(4) The cost of machinery and equipment in the form of rent or the interest on mortgage or contract payments.

(5) Insurance on the real or personal property involved.

(6) The cost of any repairs needed.

(7) The cost of any travel required.

(8) Any other expense directly related to the production of income, except the purchase of capital equipment and payment on the principal of loans for capital assets and durable goods or any cost of depreciation.

*l.* When the client is renting out apartments in the client's home, the following shall be deducted from the gross rentals received to determine the profit:

(1) Shelter expense in excess of that set forth on the chart of basic needs components in subrule 41.28(2) for the eligible group.

(2) That portion of expense for utilities furnished to tenants which exceeds the amount set forth on the chart of basic needs components in subrule 41.28(2).

(3) Ten percent of gross rentals to cover the cost of upkeep.

*m.* In determining profit from furnishing board, room, operating a family life home, or providing nursing care, the following amounts shall be deducted from the payments received:

(1) $41 plus an amount equivalent to the monthly maximum food stamp allotment in the food stamp program for a one-member household for a boarder and roomer or an individual in the home to receive nursing care, or $41 for a roomer, or an amount equivalent to the monthly maximum food stamp allotment in the food stamp program for a one-member household for a boarder.

(2) Ten percent of the total payment to cover the cost of upkeep for individuals receiving a room or nursing care.

*n.* Gross income from providing child care in the applicant's or recipient's own home shall include the total payment(s) received for the service and any payment received due to the Child Nutrition Amendments of 1978 for the cost of providing meals to children. In determining profit from providing child care services in the applicant's or recipient's own home, 40 percent of the total gross income received shall be deducted to cover the costs of producing the income, unless the individual requests to have expenses in excess of the 40 percent considered. When the applicant or recipient requests to have actual expenses considered, profit shall be determined in the same manner as specified in 41.27(2)*"o."*

*o.* In determining profit for a self-employed enterprise in the home other than providing room and board, renting apartments or providing child care services in the home, the following expenses shall be deducted from the income received:

(1) The cost of inventories and supplies purchased that are required for the business, such as items for sale or consumption and raw materials.

(2) Wages, commissions, and mandated costs relating to the wages for employees.

(3) The cost of machinery and equipment in the form of rent; or the interest on mortgage or contract payment; and any insurance on such machinery equipment.

(4) Ten percent of the total gross income to cover the costs of upkeep when the work is performed in the home.

(5) Any other direct cost involved in the production of the income, except the purchase of capital equipment and payment on the principal of loans for capital equipment and payment on the principal of loans for capital assets and durable goods or any cost of depreciation.

*p.* Rescinded IAB 6/30/99, effective 9/1/99.

*q.* The applicant or recipient shall cooperate in supplying verification of all earned income. A self-employed individual shall keep any records necessary to establish eligibility.

**41.27(3)** *Shared living arrangements.* When a family investment program parent shares living arrangements with another family or person, funds combined to meet mutual obligations for shelter and other basic needs are not income. Funds made available to the family investment program eligible group, exclusively for their needs, are considered income.

**41.27(4)** *Diversion of income.*

*a.* Nonexempt earned and unearned income of the parent shall be diverted to meet the unmet needs, including special needs, of the dependent, but ineligible child(ren) of the parent living in the family group. Income of the parent shall be diverted to meet the unmet needs of the ineligible child(ren) of the parent and a companion in the home only when the income and resources of the companion and the child(ren) are within family investment program standards. The maximum income that shall be diverted to meet the needs of the dependent, but ineligible child(ren) shall be the difference between the needs of the eligible group if the ineligible child(ren) were included and the needs of the eligible group with the child(ren) excluded, except as specified in 41.27(8)*"a"*(2) and 41.27(8)*"b."*

*b.* Nonexempt earned and unearned income of the parent shall be diverted to permit payment of court-ordered support to children not living with the parent when the payment is actually being made.

**41.27(5)** *Income of unmarried specified relatives under age 19.*

*a.* Income of an unmarried specified relative under age 19 when that specified relative lives with a parent who receives the family investment program or lives with a nonparental relative or in an independent living arrangement.

(1) The income of the unmarried, underage specified relative who is also an eligible child in the grant of the specified relative's parent shall be treated in the same manner as that of any other child. The income for the unmarried, underage specified relative who is not an eligible child in the grant of the specified relative's parent shall be treated in the same manner as though the specified relative had attained majority.

(2) The income of the unmarried, underage specified relative living with a nonparental relative or in an independent living arrangement shall be treated in the same manner as though the specified relative had attained majority.

*b.* Income of the unmarried specified relative under the age of 19 who lives in the same home as a self-supporting parent(s). The income of the unmarried specified relative under the age of 19 living in the same home as a self-supporting parent(s) shall be treated in accordance with subparagraphs (1), (2), and (4) below.

(1) When the unmarried specified relative is under the age of 18 and not a parent of the dependent child, the income of the specified relative shall be exempt.

(2) When the unmarried specified relative is under the age of 18 and a parent of the dependent child, the income of the specified relative shall be treated in the same manner as though the specified relative had attained majority. The income of the specified relative's self-supporting parent(s) shall be treated in accordance with 41.27(8)*"c."*

(3) Rescinded IAB 4/3/91, effective 3/14/91.

(4) When the unmarried specified relative is age 18, the income of the specified relative shall be treated in the same manner as though the specified relative had attained majority.

**41.27(6)** *Exempt as income and resources.* The following shall be exempt as income and resources:

*a.* Food reserves from home-produced garden products, orchards, domestic animals, and the like, when utilized by the household for its own consumption.

*b.* The value of the coupon allotment in the food stamp program.

*c.* The value of the United States Department of Agriculture donated foods (surplus commodities).

*d.* The value of supplemental food assistance received under the Child Nutrition Act and the special food service program for children under the National School Lunch Act.

*e.* Any benefits received under Title III-C, Nutrition Program for the Elderly, of the Older Americans Act.

*f.* Benefits paid to eligible households under the Low Income Home Energy Assistance Act of 1981.

*g.* Any payment received under Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 and the Federal-Aid Highway Act of 1968.

*h.* Any judgment funds that have been or will be distributed per capita or held in trust for members of any Indian tribe. When the payment, in all or part, is converted to another type of resource, that resource is also exempt.

*i.* Payments to volunteers participating in the Volunteers in Service to America (VISTA) program, except that this exemption will not be applied when the director of ACTION determines that the value of all VISTA payments, adjusted to reflect the number of hours the volunteers are serving, is equivalent to or greater than the minimum wage then in effect under the Fair Labor Standards Act of 1938, or the minimum wage under the laws of the state where the volunteers are serving, whichever is greater.

*j.* Payments for supporting services or reimbursement of out-of-pocket expenses received by volunteers in any of the programs established under Titles II and III of the Domestic Volunteer Services Act.

*k.* Tax-exempt portions of payments made pursuant to the Alaskan Native Claims Settlement Act.

*l.* Experimental housing allowance program payments made under annual contribution contracts entered into prior to January 1, 1975, under Section 23 of the U.S. Housing Act of 1936 as amended.

*m.* The income of a supplemental security income recipient.

*n.* Income of an ineligible child.

*o.* Income in-kind.

*p.* Family support subsidy program payments.

*q.* Grants obtained and used under conditions that preclude their use for current living costs.

*r.* All earned and unearned educational funds of an undergraduate or graduate student or a person in training. Any extended social security or veterans benefits received by a parent or nonparental relative as defined at subrule 41.22(3), conditional to school attendance, shall be exempt. However, any additional amount received for the person's dependents who are in the eligible group shall be counted as nonexempt income.

*s.* Rescinded IAB 2/11/98, effective 2/1/98.

*t.* Any income restricted by law or regulation which is paid to a representative payee, living outside the home, other than a parent who is the applicant or recipient, unless the income is actually made available to the applicant or recipient by the representative payee.

*u.* The first $50 received and retained by an applicant or recipient which represents a current monthly support obligation or a voluntary support payment, paid by a legally responsible individual, but in no case shall the total amount exempted exceed $50 per month per eligible group.

*ac.* Payments received from the comprehensive child development program, funded by the Administration for Children, Youth, and Families, provided the payments are considered complimentary assistance by federal regulation.

*ad.* Incentive allowance payments received from the work force investment project, provided the payments are considered complimentary assistance by federal regulation.

*ae.* Interest and dividend income.

*af.* Rescinded IAB 12/3/97, effective 2/1/98.

*ag.* Terminated income of recipient households who are subject to retrospective budgeting beginning with the calendar month the source of the income is absent, provided the absence of the income is timely reported as described at 441—subrule 40.24(1) and 441—subparagraph 40.27(4)"*f*"(1).

EXCEPTION: Income that terminated in one of the two initial months occurring at time of an initial application that was not used prospectively shall be considered retrospectively as required by 41.27(9)"*b*"(1). If income terminated and is timely reported but a grant adjustment cannot be made effective the first of the next month, a payment adjustment shall be made. This subrule shall not apply to nonrecurring lump sum income defined at 41.27(9)"*c*"(2).

*ah.* Welfare reform and regular household honorarium income. All moneys paid to a FIP household in connection with the welfare reform demonstration longitudinal study or focus groups shall be exempted.

*ai.* Diversion or self-sufficiency grants assistance as described at 441—Chapter 47.

*aj.* Payments from property sold under an installment contract as specified in paragraphs 41.26(4)*"b"* and 41.27(1)*"f."*

**41.27(8)** *Treatment of income in excluded parent cases, stepparent cases, and underage parent cases.*

*a. Treatment of income in excluded parent cases.*

(1) Treatment of income when the parent is a citizen or an alien other than those described in 41.23(4)*"a"*(3). A parent who is living in the home with the eligible child(ren) but whose needs are excluded from the eligible group is eligible for the 20 percent earned income deduction, care expenses for an incapacitated adult in the eligible group, the 50 percent work incentive deduction described at 41.27(2)*"a," "b,"* and *"c,"* and diversions described at 41.27(4), and shall be permitted to retain that part of the parent's income to meet the parent's needs as determined by the difference between the needs of the eligible group with the parent included and the needs of the eligible group with the parent excluded except as described at 41.27(11). All remaining nonexempt income of the parent shall be applied against the needs of the eligible group.

(2) Treatment of income of a parent who is ineligible because of lawful temporary or permanent resident status. The income of a parent who is ineligible as described in 41.23(4)*"a"*(3) shall be attributable to the eligible group in the same manner as the income of a stepparent is determined pursuant to 41.27(8)*"b"*(1) to (7), (9) and (10). Nonrecurring lump sum income received by the parent shall be treated in accordance with 41.27(9)*"c"*(2).

*b. Treatment of income in stepparent cases.* The income of a stepparent who is not included in the eligible group, but is living with the parent in the home of the eligible child(ren), shall be given the same consideration and treatment as that of a natural parent subject to the limitations of subparagraphs (1) to (10) below.

(1) The stepparent's monthly gross nonexempt earned income, earned as an employee or monthly net profit from self-employment, shall receive a 20 percent earned income deduction.

(2) Rescinded IAB 6/30/99, effective 7/1/99.

(3) Any amounts actually paid by the stepparent to individuals not living in the home, who are claimed or could be claimed by the stepparent as dependents for federal income tax purposes, shall be deducted from nonexempt monthly earned and unearned income of the stepparent.

(4) The stepparent shall also be allowed a deduction from nonexempt monthly earned and unearned income for alimony and child support payments made to individuals not living in the home with the stepparent.

(5) Except as described at 41.27(11), the nonexempt monthly earned and unearned income of the stepparent remaining after application of the deductions in 41.27(8)*"b"*(1) to (4) above shall be used to meet the needs of the stepparent and the stepparent's dependents living in the home, when the dependents' needs are not included in the eligible group and the stepparent claims or could claim the dependents for federal income tax purposes. These needs shall be determined in accordance with the family investment program standard of need for a family group of the same composition.

(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).

(7) The deductions described in subparagraphs (1) through (6) will first be subtracted from earned income in the same order as they appear above.

When the stepparent has both nonexempt earned and unearned income and earnings are less than the allowable deductions, then any remaining portion of the deductions in subparagraphs (3) through (5) shall be subtracted from unearned income. Any remaining income shall be applied as unearned income to the needs of the eligible group.

If the stepparent has earned income remaining after allowable deductions, then any nonexempt unearned income shall be added to the earnings and the resulting total counted as unearned income to the needs of the eligible group.

(8) A nonexempt nonrecurring lump sum received by a stepparent shall be considered as income in the budget month, and counted in computing eligibility and the amount of the grant for the payment month. Any portion of the nonrecurring lump sum retained by the stepparent in the month following the month of receipt shall be considered a resource to the stepparent.

(9) When the income of the stepparent, not in the eligible group, is insufficient to meet the needs of the stepparent and the stepparent's dependent, but ineligible, child(ren) living in the home, the income of the parent may be diverted to meet the unmet needs of the child(ren) of the current marriage except as described at 41.27(11).

(10) When the needs of the stepparent, living in the home, are not included in the eligible group, the eligible group and any dependent but ineligible child(ren) of the parent shall be considered as one unit, and the stepparent and the stepparent's dependents, other than the spouse, shall be considered a separate unit.

(11) Rescinded IAB 6/30/99, effective 9/1/99.

*c. Treatment of income in underage parent cases.* In the case of a dependent child whose unmarried parent is under the age of 18 and living in the same home as the unmarried, underage parent's own self-supporting parent(s), the income of each self-supporting parent shall be considered available to the eligible group after appropriate deductions. The deductions to be applied are the same as are applied to the income of a stepparent pursuant to 41.27(8)*"b"*(1) to (7). Nonrecurring lump sum income received by the self-supporting parent(s) shall be treated in accordance with 41.27(8)*"b"*(8).

When the self-supporting spouse of a self-supporting parent is also living in the home, the income of that spouse shall be attributable to the self-supporting parent in the same manner as the income of a stepparent is determined pursuant to 41.27(8)*"b"*(1) to (7). Nonrecurring lump sum income received by the spouse of the self-supporting parent shall be treated in accordance with 41.27(8)*"b"*(8). The self-supporting parent and any ineligible dependents of that person shall be considered as one unit; the self-supporting spouse and the spouse's ineligible dependents, other than the self-supporting parent, shall be considered a separate unit.

**41.27(9)** *Budgeting process.*

*a. Initial eligibility.*

(1) At time of application all earned and unearned income received and anticipated to be received by the eligible group during the month the decision is made shall be considered to determine eligibility for the family investment program, except income which is exempt. When income is prorated in accordance with 41.27(9)*"c"*(1) and 41.27(9)*"i,"* the prorated amount is counted as income received in the month of decision. Allowable work expenses during the month of decision shall be deducted from earned income, except when determining eligibility under the 185 percent test defined in 41.27(239B). The determination of eligibility in the month of decision is a three-step process as described in 41.27(239B).

(2) When countable gross nonexempt earned and unearned income in the month of decision, or in any other 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 rule 441—41.27(239B), 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 disregard as specified in 41.27(2)*"c."* 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 denied.

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

(4) Eligibility for the family investment program for any month or partial month before the month of decision shall be determined only when there is eligibility in the month of decision. The family composition for any month or partial month before the month of decision shall be considered the same as on the date of decision. In determining eligibility and the amount of the assistance payment for any month or partial month preceding the month of decision, income and all circumstances except family composition in that month shall be considered in the same manner as in the month of decision. When the eligibility determination is delayed until the third initial month or later and payment is being made for the preceding months, the payment for the month following the initial two months shall be based, retrospectively, on income and all circumstances except family composition in the corresponding budget month.

(5) The amount of the assistance grant for the initial two months of eligibility shall be computed prospectively with two exceptions. Income shall be considered retrospectively for the first two payment months which follow a month of suspension, unless there has been a change in the family's circumstances. Also, income for the first and second months of eligibility shall be considered retrospectively when the applicant was a recipient for the two immediately preceding payment months, including months for which payment was not received due to the restriction defined in 441—45.26(239B) and 441—45.27(239B).

(6) Income considered for prospective budgeting shall be the best estimate, based on knowledge of current and past circumstances and reasonable expectations of future circumstances.

(7) Work expense for care, as defined in 41.27(2)*"b,"* shall be the allowable care expense expected to be billed or otherwise expected to become due during the budget month. The 20 percent earned income deduction for each wage earner, as defined in 41.27(2)*"a,"* and the 50 percent work incentive deduction as defined in 41.27(2)*"c,"* shall be allowed.

*b. Ongoing eligibility.*

(1) After the initial two payment months, the amount of each grant shall be based, retrospectively, on income and other circumstances in the budget month. However, when the income was considered prospectively in the initial application and is not expected to continue, it shall not be considered again. This includes an eligible group not receiving a payment due to the restriction defined in 441—45.26(239B) and 441—45.27(239B).

(2) When a change in eligibility factors occurs, the local office shall prospectively compute eligibility based on the change, effective no later than the month following the month the change occurred. If eligibility continues, no action is taken. If ineligibility exists, assistance shall be canceled or suspended. Continuing eligibility under the 185 percent eligibility test, defined in 41.27(239B), shall be computed prospectively and retrospectively.

(3) Income considered for retrospective budgeting shall be the actual income received in the budget month, except for the income described in 41.27(9)*"c"*(1) and 41.27(9)*"i."* A payroll check will be considered received the date the employer distributes payroll checks to employees.

(4) Work expense for care, as defined in 41.27(2)*"b,"* shall be the allowable care expense expected to be billed or which otherwise became due in the budget month. The 20 percent earned income deduction for each wage earner, as defined in 41.27(2)*"a,"* and the 50 percent work incentive disregard, as defined in 41.27(2)*"c,"* shall be allowed.

*c. Lump sum income.*

(1) Lump sum income other than nonrecurring. Recurring lump sum earned and unearned income, except for the income of the self-employed, shall be considered as income in the budget month received. Income received by an individual employed under a contract shall be prorated over the period of the contract. Income received at periodic intervals or intermittently shall be considered as income in the budget month received, except periodic or intermittent income from self-employment shall be treated as described in 41.27(9)*"i."* When the income that is subject to proration is earned, appropriate disregards, deductions and diversions shall be applied to the monthly prorated income. Income that is subject to proration is prorated when a lump sum is received before the month of decision and is anticipated to recur; or a lump sum is received during the month of decision or any time during the receipt of assistance.

(2) Nonrecurring lump sum income. Moneys received as a nonrecurring lump sum, except as specified in subrules 41.26(4), 41.26(7), 41.27(8)*"b,"* and 41.27(8)*"c,"* shall be treated in accordance with this rule. Nonrecurring lump sum income shall be considered as income in the budget month and counted in computing eligibility and the amount of the grant for the payment month, unless the income is exempt. Nonrecurring lump sum unearned income is defined as a payment in the nature of a windfall, for example, an inheritance, an insurance settlement for pain and suffering, an insurance death benefit, a gift, lottery winnings, or a retroactive payment of benefits, such as social security, job insurance or workers' compensation. When countable income, exclusive of the family investment program grant but including countable lump sum income, exceeds the needs of the eligible group, the case shall be canceled or the application rejected. In addition, the eligible group shall be ineligible for the number of full months derived by dividing the income by the standard of need for the eligible group. Any income remaining after this calculation shall be applied as income to the first month following the period of ineligibility and disregarded as income thereafter.

The period of ineligibility shall be shortened when the schedule of living costs as defined in 41.28(2) increases.

The period of ineligibility shall be shortened by the amount which is no longer available to the eligible group due to a loss, a theft or because the person controlling the lump sum no longer resides with the eligible group and the lump sum is no longer available to the eligible group.

The period of ineligibility shall also be shortened when there is an expenditure of the lump sum made for the following circumstances unless there was insurance available to meet the expense: Payments made on medical services for the former eligible group or their dependents for services listed in 441—Chapters 78, 81, 82 and 85 at the time the expense is reported to the department; the cost of necessary repairs to maintain habitability of the homestead requiring the spending of over $25 per incident; cost of replacement of exempt resources as defined in subrule 41.26(1) due to fire, tornado, or other natural disaster; or funeral and burial expenses. The expenditure of these funds shall be verified. A dependent is an individual who is claimed or could be claimed by another individual as a dependent for federal income tax purposes.

When countable income, including the lump sum income, is less than the needs of the eligible group, the lump sum shall be counted as income for the budget month. For purposes of applying the lump sum provision, the eligible group is defined as all eligible persons and any other individual whose lump sum income is counted in determining the period of ineligibility. During the period of ineligibility, individuals not in the eligible group when the lump sum income was received may be eligible for family investment program as a separate eligible group. Income of this eligible group plus income, excluding the lump sum income already considered, of the parent or other legally responsible person in the home shall be considered as available in determining eligibility and the amount of the grant.

*d.* The third digit to the right of the decimal point in any computation of income, hours of employment and work expenses for care, as defined in 41.27(2)*"b,"* shall be dropped. This includes the calculation of the amount of a truancy sanction as defined in paragraph 41.25(8)*"g"* or a child support sanction as defined in paragraph 41.22(6)*"f."*

*e.* In any month for which an individual is determined eligible to be added to a currently active family investment program case, the individual's needs shall be included subject to the effective date of grant limitations as prescribed in 441—40.26(239B). When adding an individual to an existing eligible group, any income of that individual shall be considered prospectively for the initial two months of that individual's eligibility and retrospectively for subsequent months. Any income considered in prospective budgeting shall be considered in retrospective budgeting only when the income is expected to continue. The needs of an individual determined to be ineligible to remain a member of the eligible group shall be removed prospectively effective the first of the following month.

*f.* Suspension. The local office shall suspend assistance retrospectively when income or circumstances in the budget month cause ineligibility and the local office has knowledge or reason to believe that ineligibility will exist for only one month. During the month of suspension, individuals not in the eligible group prior to suspension may be eligible for the family investment program as a separate eligible group. Income of this eligible group plus income of the parent or other legally responsible person in the home shall be considered as available in determining eligibility and the amount of the grant. The income of an ineligible parent or other legally responsible person shall be considered prospectively in accordance with 41.27(4) and 41.27(8).

*g.* Rescinded IAB 2/11/98, effective 2/1/98.

**41.27(11)** *Restriction on diversion of income.* No income may be diverted to meet the needs of a person living in the home who has been sanctioned under subrule 41.24(8) or 41.25(5), or who has been disqualified under subrule 41.25(10) or rule 441—46.28(239B) or 441—46.29(239B), or who is required to be included in the eligible group according to 41.28(1)*"a"* and has failed to cooperate. This restriction applies to 41.27(4)*"a"* and 41.27(8).

This rule is intended to implement Iowa Code chapter 239B and 1997 Iowa Acts, House File 715, section 3, subsection 5.

**441—41.28(239B) Need standards.**

**41.28(1)** *Definition of the eligible group.* The eligible group consists of all eligible persons living together, except when one or more of these persons has elected to receive supplemental security income under Title XVI of the Social Security Act. There shall be at least one child in the eligible group except when the only eligible child is receiving supplemental security income. The unborn child is not considered a member of the eligible group for purposes of establishing the number of persons in the eligible group.

*a.* The following persons shall be included (except as otherwise provided in these rules):

(1) The dependent child and any brother or sister of the child, of whole or half blood or adoptive, if the brother or sister meets the eligibility requirements of age and school attendance specified in subrule 41.21(1) and is deprived as specified in subrule 41.21(5), or rule 441—42.22(239B) if the brother or sister is living in the same home as the dependent child.

(2) Any natural or adoptive parent of such child, if the parent is living in the same home as the dependent child.

*b.* The following persons may be included:

(1) The needy relative who assumes the role of parent.

(2) The needy relative who acts as payee when the parent is in the home, but is unable to act as payee.

(3) The incapacitated stepparent, upon request, when the stepparent is the legal spouse of the natural or adoptive parent by ceremonial or common law marriage and the incapacitated stepparent does not have a child in the eligible group.

(4) Rescinded IAB 6/30/99, effective 7/1/99.

**41.28(2)** *Schedule of needs.* The schedule of living costs represents 100 percent of basic needs. The schedule of living costs is used to determine the needs of individuals when these needs must be determined in accordance with the standard of need defined in 441—40.21(239B). The 185 percent schedule is included for the determination of eligibility in accordance with 441—41.27(239B). The schedule of basic needs is used to determine the basic needs of those persons whose needs are included in and are eligible for a family investment program grant. The eligible group is considered a separate and distinct group without regard to the presence in the home of other persons, regardless of relationship to or whether they have a liability to support members of the eligible group. The schedule of basic needs is also used to determine the needs of persons not included in the assistance grant, when these needs must be determined in accordance with the payment standard defined in 441—40.21(239B). The percentage of basic needs paid to one or more persons as compared to the schedule of living costs is shown on the chart below.

SCHEDULE OF NEEDS

| Number of Persons | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | Each Additional Person |
|---|---|---|---|---|---|---|---|---|---|---|---|
| 185% of Living Costs | 675.25 | 1330.15 | 1570.65 | 1824.10 | 2020.20 | 2249.60 | 2469.75 | 2695.45 | 2915.60 | 3189.40 | 320.05 |
| Schedule of Living Costs | 365 | 719 | 849 | 986 | 1092 | 1216 | 1335 | 1457 | 1576 | 1724 | 173 |
| Schedule of Basic Needs | 183 | 361 | 426 | 495 | 548 | 610 | 670 | 731 | 791 | 865 | 87 |
| Ratio of Basic Needs to Living Costs | 50.18 | 50.18 | 50.18 | 50.18 | 50.18 | 50.18 | 50.18 | 50.18 | 50.18 | 50.18 | 50.18 |

CHART OF BASIC NEEDS COMPONENTS
(all figures are on a per person basis)

| Number of Persons | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 or More |
|---|---|---|---|---|---|---|---|---|---|---|
| Shelter | 77.14 | 65.81 | 47.10 | 35.20 | 31.74 | 26.28 | 25.69 | 22.52 | 20.91 | 20.58 |
| Utilities | 19.29 | 16.45 | 11.77 | 8.80 | 7.93 | 6.57 | 6.42 | 5.63 | 5.23 | 5.14 |
| Household Supplies | 4.27 | 5.33 | 4.01 | 3.75 | 3.36 | 3.26 | 3.10 | 3.08 | 2.97 | 2.92 |
| Food | 34.49 | 44.98 | 40.31 | 39.11 | 36.65 | 37.04 | 34.00 | 33.53 | 32.87 | 32.36 |
| Clothing | 11.17 | 11.49 | 8.70 | 8.75 | 6.82 | 6.84 | 6.54 | 6.39 | 6.20 | 6.10 |
| Pers. Care & Supplies | 3.29 | 3.64 | 2.68 | 2.38 | 2.02 | 1.91 | 1.82 | 1.72 | 1.67 | 1.64 |
| Med. Chest Supplies | .99 | 1.40 | 1.34 | 1.13 | 1.15 | 1.11 | 1.08 | 1.06 | 1.09 | 1.08 |
| Communications | 7.23 | 6.17 | 3.85 | 3.25 | 2.50 | 2.07 | 1.82 | 1.66 | 1.51 | 1.49 |
| Transportation | 25.13 | 25.23 | 22.24 | 21.38 | 17.43 | 16.59 | 15.24 | 15.79 | 15.44 | 15.19 |

*a.* The definitions of the basic need components are as follows:

(1) Shelter: Rental, taxes, upkeep, insurance, amortization.

(2) Utilities: Fuel, water, lights, water heating, refrigeration, garbage.

(3) Household supplies and replacements: Essentials associated with housekeeping and meal preparation.

(4) Food: Including school lunches.

(5) Clothing: Including layette, laundry, dry cleaning.

(6) Personal care and supplies: Including regular school supplies.

(7) Medicine chest items.

(8) Communications: Telephone, newspapers, magazines.

(9) Transportation: Includes bus fares and other out-of-pocket costs of operating a privately owned vehicle.

*b.* Special situations in determining eligible group:

(1) The needs of a child or children in a nonparental home shall be considered a separate eligible group when the relative is receiving the family investment program assistance for the relative's own children.

[Filed emergency 3/14/91—published 4/3/91, effective 3/14/91]
[Filed without Notice 4/11/91—published 5/1/91, effective 7/1/91]
[Filed 5/17/91, Notice 3/20/91—published 6/12/91, effective 8/1/91]
[Filed emergency 6/14/91—published 7/10/91, effective 7/1/91]
[Filed 7/10/91, Notice 5/29/91—published 8/7/91, effective 10/1/91]
[Filed 9/18/91, Notice 7/10/91◊—published 10/16/91, effective 12/1/91]
[Filed emergency 10/10/91 after Notice 9/4/91—published 10/30/91, effective 11/1/91]
[Filed 11/15/91, Notice 9/18/91—published 12/11/91, effective 2/1/92]
*[Filed 12/11/91, Notice 10/16/91—published 1/8/92, effective 3/1/92]◊
[Filed 1/16/92, Notice 9/18/91—published 2/5/92, effective 4/1/92]
[Filed emergency 4/15/92—published 5/13/92, effective 4/16/92]
[Filed emergency 6/11/93 after Notice 4/28/93—published 7/7/93, effective 7/1/93]
[Filed emergency 9/17/93—published 10/13/93, effective 10/1/93]
[Filed emergency 11/12/93—published 12/8/93, effective 1/1/94]
[Filed 12/16/93, Notice 10/13/93—published 1/5/94, effective 3/1/94]
[Filed 2/10/94, Notice 12/8/93—published 3/2/94, effective 5/1/94]
[Filed 8/12/94, Notice 7/6/94—published 8/31/94, effective 11/1/94]
[Filed emergency 1/11/95 after Notice 11/23/94—published 2/1/95, effective 2/1/95]
[Filed 2/16/95, Notice 11/23/94—published 3/15/95, effective 5/1/95]
[Filed 7/12/95, Notice 5/10/95—published 8/2/95, effective 10/1/95]
[Filed without Notice 9/25/95—published 10/11/95, effective 12/1/95]
[Filed emergency 11/16/95—published 12/6/95, effective 12/1/95]
[Filed emergency 1/10/96 after Notice 10/11/95—published 1/31/96, effective 2/1/96]
[Filed 1/10/96, Notice 10/11/95—published 1/31/96, effective 4/1/96]
[Filed 8/15/96, Notice 5/8/96—published 9/11/96, effective 11/1/96]
[Filed emergency 9/19/96—published 10/9/96, effective 9/19/96]
[Filed emergency 12/12/96—published 1/1/97, effective 1/1/97]
[Filed 12/12/96, Notice 10/9/96—published 1/1/97, effective 3/1/97]
[Filed emergency 1/15/97—published 2/12/97, effective 3/1/97]
[Filed 3/12/97, Notice 1/1/97—published 4/9/97, effective 6/1/97]
[Filed 4/11/97, Notice 2/12/97—published 5/7/97, effective 7/1/97]
[Filed emergency 6/12/97—published 7/2/97, effective 7/1/97]
[Filed emergency 9/16/97—published 10/8/97, effective 10/1/97]
[Filed 9/16/97, Notice 7/2/97—published 10/8/97, effective 12/1/97]
[Filed 11/12/97, Notice 9/10/97—published 12/3/97, effective 2/1/98]
[Filed 11/12/97, Notice 9/10/97—published 12/3/97, effective 3/1/98]
[Filed 12/10/97, Notice 10/8/97—published 12/31/97, effective 3/1/98]
[Filed emergency 1/14/98 after Notice 11/19/97—published 2/11/98, effective 2/1/98]
[Filed emergency 6/10/98—published 7/1/98, effective 7/1/98]
[Filed 6/10/98, Notice 5/6/98—published 7/1/98, effective 9/1/98]
[Filed 8/12/98, Notice 7/1/98—published 9/9/98, effective 11/1/98]
[Filed 3/10/99, Notice 11/18/98—published 4/7/99, effective 5/31/99]
[Filed 3/10/99, Notice 11/18/98—published 4/7/99, effective 6/1/99]
[Filed 4/15/99, Notice 2/10/99—published 5/5/99, effective 7/1/99]
[Filed emergency 6/10/99—published 6/30/99, effective 7/1/99]
[Filed 6/10/99, Notice 4/21/99—published 6/30/99, effective 9/1/99]

◊Two ARCs
*Effective date of 3/1/92 delayed until adjournment of the 1992 General Assembly by the Administrative Rules Review Committee at its meeting held February 3, 1992.

# CHAPTER 46
# OVERPAYMENT RECOVERY

[Prior to 7/1/83, Social Services[770] Ch 46]
[Prior to 2/11/87, Human Services[498]]

## DIVISION I
## FAMILY INVESTMENT PROGRAM—CONTROL GROUP

[Rescinded IAB 2/12/97, effective 3/1/97]

**441—46.1** to **46.20** Reserved.

## DIVISION II
## FAMILY INVESTMENT PROGRAM—TREATMENT GROUP

[Prior to 10/13/93, 441—46.1(239) to 46.8(239)]

**441—46.21(239) Definitions.**

*"Agency error"* in overpayments means: (a) The same as circumstances described in 441—subrule 45.24(1) pertaining to underpayments, or (b) any error that is not a client or procedural error.

*"Client"* means a current or former applicant or recipient of the family investment program.

*"Client error"* means and may result from:

False or misleading statements, oral or written, regarding the client's income, resources, or other circumstances which may affect eligibility or the amount of assistance received;

Failure to timely report changes in income, resources, or other circumstances which may affect eligibility or the amount of assistance received;

Failure to timely report the receipt of and, if applicable, to refund assistance in excess of the amount shown on the most recent Notice of Decision, Form PA-3102-0, or the receipt of a duplicate grant; or

Failure to refund to the child support recovery unit any nonexempt payment from the absent parent received after the date the decision on eligibility was made.

False or misleading statements regarding the existence of a sponsor or the income or resources of the sponsor and the sponsor's spouse, when a sponsor is financially responsible for an alien according to 441—subrules 41.25(6) and 41.27(10).

*"Good cause"* for the sponsor of an alien not reporting income or resources means the change results in a monthly error of less than $10.

*"Intentional program violation"* is an action by a person for the purpose of establishing or maintaining the family's eligibility for FIP, or for increasing or preventing reduction in the grant amount by intentionally (1) making a false or misleading statement; (2) misrepresenting, concealing or withholding facts; or (3) acting with the intent to mislead, misrepresent, conceal or withhold facts, or provide false information.

*"Overpayment"* means any assistance payment received in an amount greater than the amount the eligible group is entitled to receive.

**46.25(3)** *Basic needs.*

*a.* Recoupment by withholding from basic needs for overpayments due to client error or a combination of client and agency errors shall be 10 percent of the basic needs standard in accordance with the schedule in 441—subrule 41.28(2).

*b.* Recoupment by withholding from basic needs for overpayments due to the continuation of benefits pending a decision on an appeal as provided under rule 441—7.9(217) or a combination of continued benefits and agency or client errors shall be 10 percent of the basic needs standard in accordance with the schedule in 441—subrule 41.28(2).

*c.* Recoupment by withholding from basic needs for overpayments due to agency error shall be 1 percent of the basic needs standard in accordance with the schedule in 441—subrule 41.28(2).

*d.* Rescinded IAB 6/30/99, effective 9/1/99.

**46.25(4)** *Recoupment in special alien cases.*

*a.* *Recoupment in special alien cases when the sponsor is an individual.* Recoupment shall be made from the resources deemed to an alien according to 441—subrule 41.26(9) when

(1) The sponsor is financially responsible for the alien according to 441—subrule 41.27(10),

(2) The alien and sponsor failed to provide accurate information regarding the sponsor's income or resources, and

(3) An overpayment resulted.

When recoupment is to be made from the resources deemed to an alien, the case shall be referred to the department of inspections and appeals for investigation, recoupment, or referral for possible prosecution.

*b.* *Recoupment in special alien cases when the sponsor is an agency or organization.* Recoupment shall be made from the resources of the sponsor when

(1) The sponsor is financially responsible for the alien in accordance with 441—subrule 41.25(6).

(2) The alien or sponsor failed to provide accurate information regarding the sponsor's ability to support the alien, and

(3) An overpayment resulted.

When recoupment is to be made from the sponsor's resources, the case shall be referred to the department of inspections and appeals for investigation, recoupment, or referral for possible prosecution.

**441—46.26** Rescinded, effective February 8, 1984.

**441—46.27(239) Procedures for recoupment.**

**46.27(1)** Rescinded IAB 2/8/89, effective 4/1/89.

**46.27(2)** *Referral.* When the local office determines that an overpayment exists, the case shall be referred to the department of inspections and appeals for investigation, recoupment, or referral for possible prosecution.

**46.27(3)** Rescinded IAB 2/8/89, effective 4/1/89.

**46.27(4)** *Change of circumstances.* When financial circumstances change, the recoupment plan is subject to revision.

**46.27(5)** *Collection.* Recoupment for overpayments shall be made from the parent or nonparental relative who was the caretaker relative, as defined in 441—subrule 41.22(3), at the time the overpayment occurred, except as provided in 46.24(5). When both parents were in the home at the time the overpayment occurred, both parents are equally responsible for repayment of the overpayment.

[Filed 4/23/81, Notice 3/4/81—published 5/13/81, effective 8/1/81]
[Filed emergency 9/25/81—published 10/14/81, effective 10/1/81]
[Filed emergency 10/23/81—published 11/11/81, effective 11/1/81]
[Filed 1/28/82, Notice 11/11/81—published 2/17/82, effective 4/1/82]
[Filed emergency 5/21/82—published 6/9/82, effective 5/21/82]
[Filed 6/15/82, Notice 3/17/82—published 7/7/82, effective 9/1/82]
[Filed 7/30/82, Notice 5/26/82—published 8/18/82, effective 10/1/82]
[Filed emergency 6/17/83—published 7/6/83, effective 7/1/83]
[Filed emergency 11/18/83 after Notice 10/12/83—published 12/7/83, effective 1/1/84]
[Filed 12/16/83, Notice 11/9/83—published 1/4/84, effective 2/8/84]
[Filed without Notice 9/28/84—published 10/24/84, effective 12/1/84]
[Filed emergency 1/21/85—published 2/13/85, effective 2/1/85]
[Filed emergency after Notice 3/22/85, Notice 2/13/85—published 4/10/85, effective 4/1/85]
[Filed 3/22/85, Notice 2/13/85—published 4/10/85, effective 6/1/85]
[Filed 4/29/85, Notice 10/24/84—published 5/22/85, effective 7/1/85]
[Filed 11/15/85, Notice 10/9/85—published 12/4/85, effective 2/1/86]
[Filed emergency 7/25/86 after Notice 6/4/86—published 8/13/86, effective 8/1/86]
[Filed emergency 1/15/87—published 2/11/87, effective 1/15/87]
[Filed 1/12/89, Notice 11/16/88—published 2/8/89, effective 4/1/89]
[Filed 4/13/89, Notice 3/8/89—published 5/3/89, effective 7/1/89]
[Filed 1/16/90, Notice 11/15/89—published 2/7/90, effective 4/1/90]
[Filed emergency 9/17/93—published 10/13/93, effective 10/1/93]
[Filed 12/16/93, Notice 10/13/93—published 1/5/94, effective 3/1/94]
[Filed 8/12/94, Notice 7/6/94—published 8/31/94, effective 11/1/94]
[Filed 8/15/96, Notice 5/8/96—published 9/11/96, effective 11/1/96]
[Filed emergency 1/15/97—published 2/12/97, effective 3/1/97]
[Filed 4/11/97, Notice 2/12/97—published 5/7/97, effective 7/1/97]
[Filed 11/12/97, Notice 9/10/97—published 12/3/97, effective 2/1/98]
[Filed 11/12/97, Notice 9/10/97—published 12/3/97, effective 3/1/98]
[Filed 3/10/99, Notice 11/18/98—published 4/7/99, effective 6/1/99]
[Filed 6/10/99, Notice 4/21/99—published 6/30/99, effective 9/1/99]

# CHAPTER 48
# FAMILY INVESTMENT PROGRAM ELIGIBILITY UNDER SELF-EMPLOYMENT DEMONSTRATION PROJECTS

## PREAMBLE

### A. THE SELF-EMPLOYMENT INVESTMENT DEMONSTRATION PROJECT (SEID)

1987 Iowa Acts, chapter 234, directed the department to establish, develop and monitor a self-employment investment demonstration (SEID) waiver program. SEID is a federal research project open to a limited number of states. The goal of this project is to remove public assistance policy disincentives for the family investment program recipients who pursue self-employment as a route to self-sufficiency. Recipient participation is voluntary.

As part of this project, the department has requested a waiver of certain federal and state requirements for up to one year for each participant.

In Iowa, the department will be implementing this pilot project in cooperation with the department of economic development (DED). DED will contract with local service provider(s) to furnish technical advice and business training for recipients who choose to participate in the project.

The complete program for each participant will last 15 to 18 months with up to 6 months follow-up by the service provider. Actual business operation will begin or expand after 1 to 6 months of assessment and training are completed.

Although self-employment investment demonstration program participants are generally treated the same as other family investment program recipients, there are some differences in treatment. This chapter specifies those differences in treatment and establishes the criteria for site selection.

### B. IOWA'S SELF-EMPLOYED HOUSEHOLD INCENTIVE PROGRAM (ISHIP)

1991 Iowa Acts, chapter 267, directed that the department seek permission to apply the provisions of the self-employment investment demonstration statewide. ISHIP is a waiver-only program. No funds have been appropriated for ISHIP. ISHIP shall operate in the 87 counties not operating the SEID program to the extent that participating service providers are available.

Self-employment training programs and organizations offering entrepreneurial training who want to be an ISHIP service provider must sign a nonfinancial agreement with the department. The nonfinancial agreement shall provide a means for information sharing between the service provider and the department in order to maintain correct issuance of benefits and meet the needs of the ISHIP evaluation. Services provided to ISHIP participants by the provider must include, at a minimum, technical assistance for the self-employed. Other services may include orientation to self-employment, self-assessment, image building, entrepreneurial training, financial management, and ongoing assistance.

## DIVISION I
## FAMILY INVESTMENT PROGRAM—CONTROL GROUP
[Rescinded IAB 2/12/97, effective 3/1/97]

**441—48.1** to **48.20** Reserved.

DIVISION II
FAMILY INVESTMENT PROGRAM—TREATMENT GROUP
[Prior to 10/13/93, 441—48.1(249C) to 48.3(249C)]

**441—48.21(249C) Pilot project site selection criteria.** The following criteria were used in determining the pilot project test site for SEID.

**48.21(1)** Current employment services in the area are limited to the department of workforce development (DWD) and the job training partnership Act (JTPA) program. The SEID component will serve to add an essential new set of employment alternatives.

**48.21(2)** The pilot program for the project will be operated in an area ordinarily not selected for such projects, but which is representative of the general nature of the state in regard to urban and rural populations. The test site, therefore, provides a model that could easily be expanded statewide if the pilot project proves to be a success.

**48.21(3)** The geographical area currently has limited opportunities, thus providing a distinct employment alternative.

**48.21(4)** The geographical area contains a large recipient caseload that can be used to test the model.

**48.21(5)** Contractor costs are minimized by proximity to Des Moines.

**48.21(6)** Contractor on-site time is maximized by the site's easy accessibility to Des Moines.

**441—48.22(249C) Program area.** The self-employment investment demonstration pilot project shall operate in Black Hawk, Bremer, Buchanan, Butler, Fayette and Grundy counties in the Waterloo district, and in Benton, Iowa, Johnson, Jones, Linn, and Washington counties in the Cedar Rapids district. Iowa's self-employed household incentive program shall operate in the 87 counties not designated as part of the self-employment investment demonstration pilot project.

**441—48.23(249C) Family investment program eligibility.** For the purpose of the self-employment investment demonstration program and Iowa's self-employed household incentive program, a family investment program recipient is defined as a person whose needs are included in the assistance grant. Persons who do not meet this definition shall not participate in either program and shall not be treated in accordance with this chapter. A person who loses recipient status while participating in either program may continue to receive services from the service provider but shall no longer be treated in accordance with this chapter.

Except as specified below, family investment program recipients, as defined above, participating in the self-employment investment demonstration program or Iowa's self-employed household incentive program shall be treated in accordance with 441—Chapters 7, 40 to 43, 45 and 46.

The following subrules are effective for the 12-month waiver period except for subrule 48.23(4) which is effective for the training and assessment period also. The 12-month waiver period means the 12 consecutive months beginning with the month in which a new self-employment enterprise begins or an existing self-employment enterprise expands.

**48.23(1)** *Resources.*

*a. Income-producing property.* Income-producing property used for the self-employment enterprise shall be exempt as a resource. Income-producing property means capital goods and equipment, durable goods, and work-related equipment. Capital goods and equipment and durable goods means items that are depreciable for federal income tax purposes and which generally have a life span of more than one year. Work-related equipment means the tools of a tradesperson or machinery of a farmer.

*b. Nonhomestead real property.* The net market value of any nonhomestead property used in the self-employment enterprise shall be exempt as a resource.

*c. Licensed vehicle.* The entire equity value of any licensed vehicle is excluded if the vehicle is used primarily for income-producing purposes. Primarily shall be defined as use of the vehicle over 50 percent of the time for income-producing purposes in the self-employment enterprise.

*d. Business bank account.* The participant shall be allowed to maintain a business bank account which shall be used exclusively for the self-employment enterprise. Up to $5000 of the business bank account shall be exempt as a resource, as of the first day of each month. Any money in the account in excess of that amount shall be counted toward resource limitations, unless exempt in accordance with 441—paragraph 41.26(1)*"f"* or immediately used to reduce outstanding self-employment enterprise obligations.

*e. Cash reserve fund.* The participant shall be allowed a cash reserve fund, not to exceed $3,000, which shall be used exclusively for business expenses. This fund is exempt as a resource.

**48.23(2)** *Income.*

*a. One hundred eighty-five percent gross-income test.* Up to an annual net profit of $15,000 from the self-employment enterprise shall not be counted in the 185 percent test described at 441—41.27(239). Any net profit in excess of $15,000 shall be counted in the 185 percent test.

*b. Business expense deductions.*

(1) The purchase of capital assets or durable goods shall be allowed as a business expense deduction, up to a limit of $5000 during the waiver period.

(2) The total amount of payment, both principal and interest, on a business loan shall be an allowable business expense deduction, up to a limit of $5000 during the waiver period.

(3) In no case shall the total amount of business deductions for purchase of capital equipment and loan payments exceed $7500 during the waiver period.

(4) Deposits into the cash reserve fund described in 48.23(1)*"e"* shall be allowed as a business expense deduction when calculating self-employment income.

**48.23(3)** *Two-parent families.* Only 30 families receiving family investment program-unemployed parent (FIP-UP) assistance may participate in the SEID project. Of the 30 FIP-UP families, the last 21 must have been on FIP-UP for two or more years at the time of enrollment in the program. Fifteen of these positions shall be apportioned to the SEID counties in the Waterloo district as described at rule 441—48.22(249C). The remaining 15 positions shall be apportioned to the SEID counties in the Cedar Rapids district, also described at rule 441—48.22(249C).

There is no limit on the number of FIP-UP families participating in ISHIP except as restricted by the federal government.

*a.* and *b.* Rescinded IAB 10/13/93, effective 10/1/93.

**48.23(4)** *PROMISE JOBS.* Participation in the SEID program beginning with Workshop II constitutes approved classroom training for the purpose of the PROMISE JOBS program. A SEID participant shall not be required to participate in any PROMISE JOBS activities, other than orientation, assessment and development of the employability plan, which would interfere with the person's SEID participation.

Participation in the first activity offered as beginning self-employment training or technical assistance by the service provider shall be considered as beginning ISHIP participation. Participation in ISHIP shall be considered approved classroom training for the purposes of the PROMISE JOBS program.

These rules are intended to implement Iowa Code sections 239.5, 249C.3, 249C.5 and 249C.7 and 1991 Iowa Acts, chapter 267, section 101, subsection 3.

[Filed emergency 11/25/87—published 12/16/87, effective 12/1/87]
[Filed emergency 12/10/87—published 12/30/87, effective 12/10/87]
[Filed emergency 3/18/88 after Notice 2/10/88—published 4/6/88, effective 4/1/88]
[Filed emergency 6/9/88 after Notice 5/4/88—published 6/29/88, effective 7/1/88]
[Filed 7/8/88, Notice 5/18/88—published 7/27/88, effective 9/1/88]
[Filed emergency 6/29/89 after Notice 5/3/89—published 7/26/89, effective 7/1/89]
[Filed 12/15/89, Notice 7/26/89—published 1/10/90, effective 3/1/90]
[Filed emergency 9/28/90 after Notice 7/25/90—published 10/17/90, effective 10/1/90]
[Filed 12/13/90, Notice 10/31/90—published 1/9/91, effective 3/1/91]
[Filed emergency 11/15/91—published 12/11/91, effective 12/1/91]
[Filed 1/15/92, Notice 12/11/91—published 2/5/92, effective 4/1/92]
[Filed emergency 9/17/93—published 10/13/93, effective 10/1/93]
[Filed 12/16/93, Notice 10/13/93—published 1/5/94, effective 3/1/94]
[Filed emergency 1/15/97—published 2/12/97, effective 3/1/97]
[Filed 4/11/97, Notice 2/12/97—published 5/7/97, effective 7/1/97]
[Filed 6/10/99, Notice 4/21/99—published 6/30/99, effective 9/1/99]

# CHAPTER 49
# TRANSITIONAL CHILD CARE ASSISTANCE PROGRAM

## DIVISION I
## FAMILY INVESTMENT PROGRAM—CONTROL GROUP
[Rescinded IAB 2/12/97, effective 3/1/97]

**441—49.1** to **49.20** Reserved.

## DIVISION II
## FAMILY INVESTMENT PROGRAM—TREATMENT GROUP
[Prior to 10/13/93, 441—49.1(239) to 49.14(239)]

### PREAMBLE

As part of the state's welfare reform initiatives, 1988 Iowa Acts, chapters 1276 and 1249, authorized the department to implement a transitional child care assistance program effective October 1, 1988. Aid to dependent children (ADC) recipients who lost their ADC eligibility solely due to an increase in earned income or due to loss of the $30 or the $30 plus one-third earned income disregards were eligible to receive 12 months of supplemental child care assistance, regardless of the amount of the family's income.

The Family Support Act of 1988, which was signed by President Reagan on October 13, 1988, authorized a federally funded transitional child care assistance program, which the states were required to implement effective April 1, 1990. 1989 Iowa Acts, chapter 318, required the department to implement this program, effective April 1, 1990.

Although the federal law and regulations preclude eligibility for persons who became ineligible for ADC prior to April 1, 1990, the department transitioned in those persons who were eligible for the state's transitional child care program, using state-only funding.

As part of the state's continuing welfare reform efforts, 1993 Iowa Acts, Senate File 268, as passed by the Seventy-fifth General Assembly, and signed by the governor on May 4, 1993, authorized the department to seek a series of ADC federal waivers which, if approved, would provide a transition to work, encourage family stability, and provide recipients with the opportunity to take personal responsibility to get off welfare. The waivers were approved August 13, 1993, and the changes are being incorporated into 441—Chapter 49 effective October 1, 1993, including an extension of the eligibility period for transitional child care from 12 months to 24 months. The name of the ADC program in Iowa is changed to the family investment program (FIP).

1994 Iowa Acts, chapter 1186, section 27, authorized the department to seek an additional transitional child care federal waiver which would extend transitional child care eligibility to former FIP participants who have ceased to be eligible for FIP due to receipt of child support and FIP participants who voluntarily cease FIP eligibility; and exempt the state from the entitlement provision of this program for waiver policy services to allow for the denial of requests and the establishment of a waiting list if funds are not available to serve all families who request benefits under the waivered policies. The waivers were approved on February 21, 1995, and the changes are being incorporated into 441—Chapter 49 effective April 1, 1995.

**441—49.21(239B) Eligibility for transitional child care.** A family is eligible for transitional child care when the caretaker relative is employed and the following conditions are met:

**49.21(1)** The family must have ceased to be eligible for FIP as a result of increased income from employment, receipt of child support, or voluntary cessation of benefits.

**49.21(2)** The family received FIP or a program under Title IV-A of the Social Security Act, including those families not receiving a grant due to being eligible for less than a $10 grant, in at least three of the six months immediately preceding the first month of ineligibility for assistance. Assistance may have been received in Iowa or in another state.

**49.21(3)** The family requests transitional child care benefits, provides the information necessary for determining eligibility and copayment, and meets the other requirements of this chapter.

**49.21(4)** The family ceased to be eligible for FIP on or after April 1, 1990, except for those persons eligible for the previous state-funded program who became ineligible for ADC at some point from October 1, 1988, through March 31, 1990, and who meet the requirements of rule 441—49.34(239B).

**441—49.22(239B) Eligible children.** Payment shall be made for a dependent child, or a person who would be a dependent child except for the receipt of supplemental security income. Payment shall also be made for a dependent child living in the home whose needs are met by IV-E foster care. Payment is limited to children who are either under the age of 13, or aged 13 and over who are physically or mentally incapable of self-care, when established in accordance with 441—paragraph 41.21(5) "*c*," or under court supervision. A dependent child is a person who is deprived as specified in 441—subrule 41.21(5) or rule 441—42.22(239B) and who meets the age and school attendance requirements specified in 441—subrule 41.21(1) and who is living in the same home as the caretaker relative. A child is no longer dependent when the child marries unless the marriage is annulled. A child who has been divorced is still considered an adult.

**441—49.23(239B) Child care facilities eligible to participate.** Providers meeting requirements specified at 441—subrule 170.4(3) are eligible to participate in the transitional child care program.

**441—49.24(239B) Effective date of eligibility.** Regardless of when a family requests transitional child care assistance, eligibility for transitional child care begins with the first month for which the family is ineligible for assistance in accordance with rule 441—49.21(239B) and continues for a period of 24 consecutive months. Families may begin to receive child care assistance in any month during the 24-month eligibility period. Entitlement for retroactive transitional child care assistance exists for the entire 24-month period regardless of when the family requests benefits from the program with the exception of those families who ceased to be eligible for FIP due to receipt of child support or voluntary cessation. Those families are eligible for retroactive assistance effective with the first month for which they are ineligible for assistance or April 1, 1995, whichever is later, and continues for a period of 24 consecutive months from the first month for which they were ineligible for FIP. Benefits shall not be paid for services provided prior to April 1, 1995, for those who ceased to be eligible for FIP due to receipt of child support or voluntary cessation of benefits.

**441—49.25(239B) Reasons for ineligibility for transitional child care assistance.** In all of the following situations, if the family reestablishes eligibility for FIP during the 24-month period, the family is entitled to a new 24-month period if the family again becomes ineligible for FIP in accordance with rule 441—49.21(239B) and otherwise meets the eligibility requirements of this chapter.

**49.25(1)** The family is not eligible for transitional child care assistance for any remaining portion of the 24-month period beginning with the month after the caretaker relative, without identified problems with participation of a temporary or incidental nature as described at rule 441—93.133(249C) or barriers to participation as described at rule 441—93.134(249C), terminated employment which would have caused or did cause ineligibility for FIP.

**49.25(2)** The family is not eligible for transitional child care assistance for any remaining portion of the 24-month period beginning with the month after the caretaker relative, without good cause, fails to cooperate with the child support recovery unit, as required at 441—subrule 41.22(6), in establishing payments and enforcing child support obligations, prior to the cancellation of FIP.

**49.25(3)** If the caretaker relative loses a job with identified problems with participation of a temporary or incidental nature as described at rule 441—93.133(249C) or barriers to participation as described at rule 441—93.134(249C), and then finds another job, the family can qualify for the remaining portion of the 24-month eligibility period.

**441—49.26(239B) Income.** Income shall be determined in accordance with 441—subrule 130.3(3) except supplemental security income, state supplementary assistance, and IV-E foster care payments shall be exempt. Income shall be calculated prospectively. When monthly income fluctuates, an average of the income for at least three months, but no more than the past six months, shall be used. When income begins, the best estimate of the prospective income to be received in the first three months shall be used. The client shall be required to verify income to determine initial eligibility, at the time of the annual review, and at the time a change in income is reported. When determining income and family size, household composition shall be determined in accordance with rule 441—130.1(234) and subrule 130.3(5).

**441—49.27(239B) Copayments.** The income limits and fee schedule specified at 441—subrules 130.3(1) and 130.4(3) shall be used to determine the amount of copayment required of the client with two exceptions.

**49.27(1)** When the client's income exceeds the income limits specified at 441—subrule 130.3(1), eligibility shall continue with the client paying the maximum copayment specified at 441—subrule 130.4(3).

**49.27(2)** When the client's income is so low that no copayment would normally be required as specified at 441—subrule 130.4(3), the client shall be required to pay a copayment of 2 cents a half-day unit, depending on the child care needed.

**441—49.28(239B) Copayment requirement.** Each family receiving transitional child care assistance shall pay the copayment amount determined in rule 441—49.27(239B) as a condition of eligibility for the program. Each month the client's child care provider shall verify on Form 470-2476, Transitional Child Care Voucher Payment, as to whether the client has made the required copayment, or has made arrangements to make the required copayment, for the prior month. If a family does not cooperate in paying its fee, it shall become ineligible for continued transitional benefits, and it shall remain ineligible for so long as back fees are owed, unless satisfactory arrangements are made to make full payment.

Caretaker relatives who fail to cooperate in paying required fees shall lose eligibility for transitional child care assistance for so long as back fees are owed, unless satisfactory arrangements are made with the provider to make full payment. In this instance, cancellation of transitional child care assistance is subject to the timely notice and appeal requirements specified in 441—Chapter 7.

**441—49.29(239B) Billing procedures.**

**49.29(1)** The client and the provider shall be required to complete Form 470-2475, Transitional Child Care Voucher Payment Agreement, to determine initial eligibility, at the time of the annual review, and at the time a change is reported. Transitional child care shall not be continued without completion of the form.

**49.29(2)** The provider shall submit Form 470-2476, Transitional Child Care Voucher Payment, to the local office monthly.

**49.29(3)** Providers shall bill the department in the amount that is assessed, less the client copayment. The amount that is assessed shall be based on the units of service as specified at 441—130.4(3) *"a,"* and shall be determined in accordance with 441—subrule 130.4(3) and rule 441—49.27(239B). The program shall contribute to payment for days of absence not to exceed four days per child per calendar month. The provider shall agree not to collect any fee from the client other than the assessed copayment determined in accordance with these rules.

**49.29(4)** Payment for transitional child care shall begin in the month that the client returns the signed Form 470-2475 or the month the provider meets requirements specified at 441—subrule 170.4(3), whichever is later. However, once the signed form is returned or the provider meets the requirements, payment shall be made retroactively for any past months of the 24 months in which child care costs were incurred and the client was otherwise eligible.

**441—49.30(239B) Payment.**

**49.30(1)** The rate of payment to the provider shall not exceed the amount specified for the PROMISE JOBS program in accordance with 441—Chapter 93, Division II.

**49.30(2)** The rate of payment shall be no more than the provider charges a private individual or that the provider charges under state day care arrangements.

**49.30(3)** Payment will be made only for care which covers the actual hours of the individual's employment plus a reasonable time commuting or the period of time when the individual is sleeping because the individual's hours of employment require the individual to sleep during the waking hours of the child.

**49.30(4)** In two-parent households payment will be made for care only if it can be documented that the other parent is unable to provide care or the other parent is employed, in school, or participating in an employment or training program during the hours care is needed.

**441—49.31(239B) Termination of eligibility.** In addition to the reasons specified in rules 441—49.25(239B) and 441—49.28(239B), transitional child care assistance shall also be terminated when one of the following conditions exists. The client:

1. Is eligible for FIP, if an application is filed.
2. Is no longer employed.
3. Has received transitional child care assistance for 24 consecutive months.
4. Is no longer a resident of Iowa.

**441—49.32(239B) Notification and appeals.** Before action can be taken to terminate transitional child care assistance or to increase the amount of the client copayment, timely and adequate notice must be issued in accordance with 441—Chapter 7. When the client requests a hearing within the timely notice period as defined at rule 441—7.1(217), transitional child care assistance shall be continued no longer than through the end of the certification period pending a decision on the appeal.

**441—49.33(239B) Overpayments and recovery.** Clients and providers who receive incorrect payments from the transitional child care assistance program shall have the overpayments recovered in the same manner as specified for the recovery of excess child care payments for the PROMISE JOBS program, described in 441—Chapter 93.

**441—49.34(239B) Families transitioned from the state-funded transitional child care assistance program.** As stated at subrule 49.21(4), persons receiving transitional child care assistance through the state-funded program that was in existence from October 1, 1988, through March 31, 1990, are transitioned into the federally funded program except that the costs of these families' assistance shall be met with state funding. All of the provisions of this revised chapter apply to the transitioned families except as specified as follows:

**49.34(1)** The provisions in subrules 49.21(1) and 49.21(2).

**49.34(2)** All provisions for rule 441—49.24(239B) apply except that there is no eligibility for retroactive months of transitional child care assistance for any month prior to April 1990.

**49.34(3)** All provisions of subrules 49.25(1) and 49.25(2) apply except that no period of ineligibility shall be applied to persons in the transitioned group who quit a job without good cause or who failed to cooperate with child support recovery prior to April 1, 1990. The period of ineligibility shall be applied to persons who quit a job, without good cause, or failed to cooperate with child support recovery on or after April 1, 1990.

**49.34(4)** All provisions of subrule 49.29(4) apply except that there is no eligibility for retroactive months of transitional child care assistance for any month prior to April 1990.

Overpayments caused by client or provider misrepresentation which occurred for any month from October 1, 1988, through March 31, 1990, under the state-funded transitional child care assistance shall be recovered, in accordance with rules 441—49.33(239B).

**441—49.35(239B) Waiting lists.** When the state lacks resources, requests for transitional child care shall be denied and a waiting list established for families who are eligible for transitional child care based on voluntary cessation of FIP benefits or FIP cancellation due to receipt of child support. Eligibility for transitional child care benefits for families who are eligible for the program due to increased income shall continue to be an entitlement and requests by eligible families shall not be denied.

**49.35(1)** *Log of families.* The regional office shall maintain a log of families requesting transitional child care services who are eligible based on voluntary cessation of FIP benefits or FIP cancellation due to receipt of child support when funds are not available to provide benefits. When the department determines that there is adequate funding, the department shall notify the families on the waiting list regarding the availability of funding for waivered policy services.

**49.35(2)** *Notification of regional staff.* The income maintenance worker in the county office shall document the date of requests for transitional child care. The worker shall contact the regional staff person responsible for maintaining the log for the region by the end of the second workday after the family requests transitional child care. By the end of the third workday after receipt of the application the family shall be entered in the regional log.

**49.35(3)** *Entry on log.* Each family's name shall be entered on the logs according to when the application for transitional child care services is date-stamped in the county office. In the event more than one application is received at one time, families will be entered on the log on the basis of the day of the month of the birthday of the oldest eligible child, lowest number being first on the log. Any subsequent tie shall be decided by the month of birth, January being month one and the lowest number.

**441—49.36(239B) Termination of program.** Persons receiving transitional child care as of July 1, 1999, may continue to receive transitional child care until their eligibility period ends or they otherwise become ineligible. No new applications for transitional child care will be taken or approved after June 30, 1999.

These rules are intended to implement 1997 Iowa Code Supplement section 239B.23 and 1999 Iowa Acts, House File 761, section 36, subsection 2.

[Filed emergency 9/2/88 after Notice 7/13/88—published 9/21/88, effective 10/1/88]
[Filed without Notice 1/16/90—published 2/7/90, effective 4/1/90]
[Filed 3/16/90, Notice 2/7/90—published 4/4/90, effective 6/1/90]
[Filed emergency 3/14/91 after Notice 2/6/91—published 4/3/91, effective 4/1/91]
[Filed 4/11/91, Notice 2/20/91—published 5/1/91, effective 7/1/91]
[Filed 12/11/91, Notice 10/16/91—published 1/8/92, effective 3/1/92]
[Filed 12/11/91, Notice 10/30/91—published 1/8/92, effective 3/1/92]*
[Filed emergency 4/15/92—published 5/13/92, effective 4/16/92]
[Filed emergency 9/17/93—published 10/13/93, effective 10/1/93]
[Filed emergency 11/12/93—published 12/8/93, effective 1/1/94]
[Filed 12/16/93, Notice 10/13/93—published 1/5/94, effective 3/1/94]
[Filed 2/10/94, Notice 12/8/93—published 3/2/94, effective 5/1/94]
[Filed emergency 6/16/94—published 7/6/94, effective 7/1/94]
[Filed 8/12/94, Notice 7/6/94—published 8/31/94, effective 11/1/94]
[Filed emergency 3/20/95—published 4/12/95, effective 4/1/95]
[Filed 6/7/95, Notice 4/12/95—published 7/5/95, effective 9/1/95]
[Filed 9/6/95, Notice 6/21/95—published 9/27/95, effective 11/1/95]
[Filed emergency 1/15/97—published 2/12/97, effective 3/1/97]
[Filed 4/11/97, Notice 2/12/97—published 5/7/97, effective 7/1/97]
[Filed emergency 6/10/99—published 6/30/99, effective 7/1/99]

*Effective date of 3/1/92 delayed until adjournment of the 1992 General Assembly by the Administrative Rules Review Committee at its meeting held February 3, 1992.

**73.4(3)** *Income eligibility.* All earned and unearned income of the household shall be counted in determining eligibility.

*a.* *Income defined.* Income means all income received by an individual from sources identified by the U.S. Census Bureau in computing median income and includes money wages or salary, net income from nonfarm self-employment, net income from farm self-employment, dividends, interest, income from estates or trusts, net rental income and royalties, public assistance or welfare payments, pensions and annuities, workers' compensation, alimony, child support, veterans' pensions, social security, railroad retirement, supplemental security income, state or federal assistance, veterans' benefits, black lung benefits, all disability pensions, state supplementary assistance, unemployment compensation benefits, and income from minors under 16 years of age.

*b.* *Determination of income.* Earned or unearned income shall be the gross annual, monthly, or weekly income. Biweekly income is to be multiplied by 2.15 to determine monthly income. Adjusted gross self-employment income is to be averaged over a 12-month period. Income received from interest and dividends shall be averaged over a 12-month period. The amount of income which stops or starts during the month shall be estimated on the basis of the best information available.

*c.* *Income exclusions.* Income from the following programs shall not be counted when figuring total household income for this program:

(1) Uniform Relocation Assistance and Real Property Acquisition Act of 1970 (Public Law 91-646, Section 216).

(2) Domestic Volunteers Services Act of 1973 (Public Law 93-113) as amended.

(3) Vista, University Year for Action.

(4) Payments derived from certain submarginal land of the United States which is held in trust for certain Indian Tribes (Public Law 94-114, Section 6).

(5) Payments from Crisis Intervention Program.

(6) CETA Youth Programs (Public Law 95-524) which include:

Youth Incentive Entitlement Pilot Project.

Youth Community Conservation and Improvement Project.

Youth Employment and Training Program.

(7) Indian Claims Commission Payments (Public Law 95-433).

(8) Job Training Partnership Act (Public Law 97-300) including salaries paid by employers to JTPA participants in an on-the-job training component.

(9) Income derived from the disposition of funds to the Grand River Band of Ottawa Indians (Public Law 94-540).

(10) Alaska Native Claims Settlement Act (Public Law 92-203).

(11) Low Income Home Energy Assistance Program.

(12) Financial assistance received from any program funded under Title IV of the Higher Education Act for students attending an institution of postsecondary education at least half-time which is used by the students for tuition and mandatory fees or as an allowance for books, supplies, transportation and miscellaneous personal expenses.

*d.* *Income guidelines.* Persons are financially eligible for this program when they are in one of the following categories:

(1) *Income maintenance status.* All members of the household are recipients of the family investment program, recipients of supplemental security income, or recipients of the food stamp program.

(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 | $15,244 | $1,271 | $294 |
| 2 | 20,461 | 1,706 | 394 |
| 3 | 25,678 | 2,140 | 494 |
| 4 | 30,895 | 2,575 | 595 |
| 5 | 36,112 | 3,010 | 695 |
| 6 | 41,329 | 3,445 | 795 |
| 7 | 46,546 | 3,879 | 896 |
| 8 | 51,763 | 4,314 | 996 |
| For each additional household member add: | $ 5,217 | $ 435 | $101 |

**441—73.5(234) Notification of available food.** The public shall be informed of the availability of food, the type of food available and the location and times of distribution by announcements through local media.

**441—73.6(234) Household certification procedure.** A responsible member of the household or designated proxy shall complete and sign a Declaratory Statement of Eligibility, FP-1102-0, prior to receiving food. The Declaratory Statement of Eligibility declares household residency, size, and income; that the household is not receiving food under this program as part of another household or at another distribution site; acknowledges an understanding of possible prosecution, under current law, for accepting food for which the household may not be eligible; agrees to cooperate with a quality control review; and indicates an understanding that the food received through this program is not to be sold or exchanged. The household member or proxy may be asked to show some official identification before receiving the food.

**73.6(1)** *Proxy designation.* When a member of the household cannot be present to complete the Declaratory Statement of Eligibility due to disability, employment, or lack of transportation, the member may authorize a proxy to act on behalf of the household by completing an application in advance and having a proxy pick up the food at the distribution site, or by sending a signed note of authorization with the person acting as a proxy.

**73.6(2)** Reserved.

**441—73.7(234) Distribution to households.** The amount and type of federal surplus food distributed to each needy household shall be based upon the amount and type of food timely available and the individual household size. The schedule of distribution shall also be based upon the amount and type of food timely available and upon the availability of distribution and storage resources. A household may request less than the amount of food it is entitled to receive.

**441—73.61(234) Disaster feeding.** Any donated food received in the institution food distribution program may be used for group disaster feeding purposes with approval from the food distribution unit.

**441—73.62(234) Food losses.** All food losses regardless of the dollar amount shall be reported to the food distribution unit by the entity (recipient institution, warehouse, or food processor) responsible for the food. The food distribution unit shall log in each loss by entity. Losses shall accumulate by entity from October 1 to September 30 of each year.

**73.62(1)** *Definition of lost foods.* Lost foods means those foods which, for any reason, cannot be demonstrated by appropriate records or other satisfactory evidence to have been delivered to, or to be available in good condition for delivery to eligible recipient agencies or eligible recipients for whom they were intended. Commodities may be lost through one or more of the following means:

*a.* Theft, damage, spoilage, or infestation in transit or in storage.

*b.* Improper distribution to institutions, families or individuals, distributing above authorized rates, and in the case of charitable institutions, on the basis of a greater population than the number of needy persons served.

*c.* Sale or exchange of commodities or diversion to an improper use.

*d.* Failure to deliver end products according to contracted yields under a processing agreement.

*e.* Other similar causes.

**73.62(2)** *Determination of fault.* The food distribution unit shall investigate the food loss and determine who is at fault.

**73.62(3)** *Claim action.* If the entity is at fault a claim action shall be initiated if the value of the accumulated food loss exceeds $100 unless there is evidence of violation of a federal or state statute. A claim action must be initiated regardless of the value of the food losses if the food losses occur when in transit for delivery.

**73.62(4)** *Processing of claims.*

*a.* Up to three demand letters will be sent to the entity determined responsible for the loss.

*b.* Interest (late charge) shall be assessed against an entity beginning on the thirty-first day following the date of the first demand letter at the rate determined by the U.S. Treasury Department at the beginning of each fiscal quarter.

*c.* Failure to make restitution when requested is cause for cancellation of the agreement.

*d.* When an entity accumulates losses totaling $2,500 in a federal fiscal year, the bureau of food distribution shall refer the loss to the USDA Food and Nutrition Service regional office.

**73.62(5)** *Claim payment.*

*a.* The claim shall be paid to the food distribution unit.

*b.* Replacement-in-kind with generically like items in lieu of cash payment may be used for losses with the approval of the food distribution unit if the replacement-in-kind would not result in further losses and the inventory is not already in excess.

*c.* If replacement-in-kind is not practicable, similar replacement may be used in lieu of cash payment with the approval of the food distribution unit and the Food and Nutrition Service regional office. Similar replacement means replacement of lost foods with a like quantity of similar domestically produced foods from the same food group.

*d.* The loss of bonus items may not be paid with replacement-in-kind or similar replacement items. Bonus items are those so designated by USDA and offered by USDA to the states as a one-time offer.

**73.62(6)** *Administrative review of claim.* An entity may request an administrative review of its claim in writing within 20 days of receipt of its first demand letter. The procedures outlined in rule 441—73.54(234) shall be used.

These rules are intended to implement Iowa Code sections 234.6 and 234.12.

[Filed 11/5/82, Notice 9/15/82—published 11/24/82, effective 1/1/83]
[Filed emergency 6/17/83—published 7/6/83, effective 7/1/83]
[Filed emergency 6/15/84—published 7/4/84, effective 6/14/84]
[Filed 6/15/84, Notice 4/25/84—published 7/4/84, effective 9/1/84]
[Filed 7/13/84, Notice 6/6/84—published 8/1/84, effective 10/1/84]
[Filed emergency after Notice 6/14/85, Notice 5/8/85—published 7/3/85, effective 7/1/85]
[Filed 11/15/85, Notice 9/25/85—published 12/4/85, effective 2/1/86]
[Filed emergency 5/28/86—published 6/18/86, effective 7/1/86]
[Filed 10/17/86, Notice 8/27/86—published 11/5/86, effective 1/1/87]
[Filed emergency 1/15/87—published 2/11/87, effective 1/15/87]
[Filed emergency 6/19/87—published 7/15/87, effective 7/1/87]
[Filed emergency 6/10/88—published 6/29/88, effective 7/1/88]
[Filed 4/13/89, Notice 2/22/89—published 5/3/89, effective 7/1/89]
[Filed emergency 5/10/89—published 5/31/89, effective 7/1/89]
[Filed emergency 6/14/90—published 7/11/90, effective 7/1/90]
[Filed 12/13/90, Notice 10/31/90—published 1/9/91, effective 3/1/91]
[Filed emergency 6/14/91—published 7/10/91, effective 7/1/91]
[Filed emergency after Notice 6/11/92—published 7/8/92, effective 7/1/92]
[Filed emergency 6/11/93 after Notice 4/28/93—published 7/7/93, effective 7/1/93]
[Filed emergency 6/16/94 after Notice 4/27/94—published 7/6/94, effective 7/1/94]
[Filed 7/15/94, Notice 6/8/94—published 8/3/94, effective 10/1/94]
[Filed emergency 6/7/95 after Notice 4/26/95—published 7/5/95, effective 7/1/95]
[Filed emergency 6/12/97 after Notice 5/7/97—published 7/2/97, effective 7/1/97]
[Filed emergency 6/10/98 after Notice 5/6/98—published 7/1/98, effective 7/1/98]
[Filed emergency 6/10/99 after Notice 5/5/99—published 6/30/99, effective 7/1/99]

## CHAPTER 74

Transferred to Chapter 73 as rules 441—73.41 to 441—73.62, IAB 5/3/89

TITLE VIII
*MEDICAL ASSISTANCE*

# CHAPTER 75
# CONDITIONS OF ELIGIBILITY

[Ch 75, 1973 IDR, renumbered as Ch 90]
[Prior to 7/1/83, Social Services[770] Ch 75]
[Prior to 2/11/87, Human Services[498]]

## DIVISION I
## GENERAL CONDITIONS OF ELIGIBILITY, COVERAGE GROUPS, AND SSI-RELATED PROGRAMS

**441—75.1(249A) Persons covered.**

**75.1(1)** *Persons receiving refugee cash assistance.* Medical assistance shall be available to all recipients of refugee cash assistance. Recipient means a person for whom a refugee cash assistance (RCA) payment is received and includes persons deemed to be receiving RCA. Persons deemed to be receiving RCA are:

*a.* Persons denied RCA because the amount of payment would be less than $10.

*b.* Persons suspended from RCA because of a temporary increase in income expected to last for only one month, such as five weekly checks received in the budget month instead of the usual four, or due to recovery of an overpayment.

*c.* Persons who are eligible in every respect for refugee cash assistance (RCA) as provided in 441—Chapter 60, but who do not receive RCA because they did not make application for the assistance.

**75.1(2)** Rescinded IAB 10/8/97, effective 12/1/97.

**75.1(3)** *Persons who are ineligible for Supplemental Security Income (SSI) because of requirements that do not apply under Title XIX of the Social Security Act.* Medicaid shall be available to persons who would be eligible for SSI except for an eligibility requirement used in that program which is specifically prohibited under Title XIX.

**75.1(4)** *Beneficiaries of Title XVI of the Social Security Act (supplemental security income for the aged, blind and disabled) and mandatory state supplementation.* Medical assistance will be available to all beneficiaries of the Title XVI program and those receiving mandatory state supplementation.

**75.1(5)** *Persons receiving care in a medical institution who were eligible for Medicaid as of December 31, 1973.* Medicaid shall be available to all persons receiving care in a medical institution who were recipients of Medicaid as of December 31, 1973. Eligibility of these persons will continue as long as they continue to meet the eligibility requirements for the applicable assistance programs (old-age assistance, aid to the blind or aid to the disabled) in effect on December 31, 1973.

**75.1(6)** *Persons who would be eligible for supplemental security income (SSI), state supplementary assistance (SSA), or the family medical assistance program (FMAP) except for their institutional status.* Medicaid shall be available to persons receiving care in a medical institution who would be eligible for SSI, SSA, or FMAP if they were not institutionalized.

**75.1(7)** *Persons receiving care in a medical facility who would be eligible under a special income standard.*

*a.* Subject to paragraphs *"b"* and *"c"* below, Medicaid shall be available to persons who:

(1) Meet level of care requirements as set forth in rules 441—78.3(249A), 441—81.3(249A), and 441—82.7(249A).

(2) Receive care in a hospital, nursing facility, psychiatric medical institution, intermediate care facility for the mentally retarded, or Medicare-certified skilled nursing facility.

(3) Have gross countable monthly income that does not exceed 300 percent of the federal supplemental security income benefits for one.

(4) Either meet all supplemental security income (SSI) eligibility requirements except for income or are under age 21. FMAP policies regarding income, age, and deprivation of parental care and support do not apply when determining eligibility for persons under the age of 21.

*b.* For all persons in this coverage group, income shall be considered as provided for SSI-related coverage groups under subrule 75.13(2). In establishing eligibility for persons aged 21 or older for this coverage group, resources shall be considered as provided for SSI-related coverage groups under subrule 75.13(2).

*c.* Eligibility for persons in this group shall not exist until the person has been institutionalized for a period of 30 consecutive days and shall be effective no earlier than the first day of the month in which the 30-day period begins. A "period of 30 days" is defined as being from 12 a.m. of the day of admission to the medical institution, and ending no earlier than 12 midnight of the thirtieth day following the beginning of the period.

(1) A person who enters a medical institution and who dies prior to completion of the 30-day period shall be considered to meet the 30-day period provision.

(2) Only one 30-day period is required to establish eligibility during a continuous stay in a medical institution. Discharge during a subsequent month, creating a partial month of care, does not affect eligibility for that partial month regardless of whether the eligibility determination was completed prior to discharge.

(3) A temporary absence of not more than 14 full consecutive days during which the person remains under the jurisdiction of the institution does not interrupt the 30-day period. In order to remain "under the jurisdiction of the institution" a person must first have been physically admitted to the institution.

**75.1(8)** *Certain persons essential to the welfare of Title XVI beneficiaries.* Medical assistance will be available to the person living with and essential to the welfare of a Title XIX beneficiary provided the essential person was eligible for medical assistance as of December 31, 1973. The person will continue to be eligible for medical assistance as long as the person continues to meet the definition of "essential person" in effect in the public assistance program on December 31, 1973.

**75.1(9)** *Individuals receiving state supplemental assistance.* Medical assistance shall be available to all recipients of state supplemental assistance as authorized by Iowa Code chapter 249. Medical assistance shall also be available to the individual's dependent relative as defined in 441—subrule 51.4(4).

**75.1(10)** *Individuals under age 21 living in a licensed foster care facility or in a private home pursuant to a subsidized adoption arrangement for whom the department has financial responsibility in whole or in part.* Medical assistance will be available to all these individuals provided they are not otherwise eligible under a category for which federal financial participation is available.

**75.1(11)** Rescinded IAB 10/8/97, effective 12/1/97.

**75.1(12)** *Persons ineligible due to October 1, 1972, social security increase.* Medical assistance will be available to individuals and families whose assistance grants were canceled as a result of the increase in social security benefits October 1, 1972, as long as these individuals and families would be eligible for an assistance grant if the increase were not considered.

**75.1(13)** *Persons who would be eligible for supplemental security income or state supplementary assistance but for social security cost-of-living increases received.* Medical assistance shall be available to all current social security recipients who meet the following conditions:

*a.* They were entitled to and received concurrently in any month after April 1977 supplemental security income and social security or state supplementary assistance and social security, and

*b.* They subsequently lost eligibility for supplemental security income or state supplementary assistance, and

*c.* They would be eligible for supplemental security income or state supplementary assistance if all of the social security cost-of-living increases which they and their financially responsible spouses, parents, and dependent children received since they were last eligible for and received social security and supplemental security income (or state supplementary assistance) concurrently were deducted from their income. Spouses, parents, and dependent children are considered financially responsible if their income would be considered in determining the applicant's eligibility.

**75.1(14)** *Family medical assistance program (FMAP).* Medicaid shall be available to children who meet the provisions of rule 441—75.54(249A) and to the children's specified relatives who meet the provisions of subrule 75.54(2) and rule 441—75.55(249A) if the following criteria are met.

*a.* In establishing eligibility of specified relatives for this coverage group, resources are considered in accordance with the provisions of rule 441—75.56(249A) and shall not exceed $2,000 for applicant households or $5,000 for recipient households. In establishing eligibility for children for this coverage group, resources of all persons in the eligible group, regardless of age, shall be disregarded.

*b.* Income is considered in accordance with rule 441—75.57(249A) and does not exceed needs standards established in rule 441—75.58(249A).

*c.* The child is deprived of parental care or support in accordance with subrule 75.54(3).

**75.1(15)** *Child medical assistance program (CMAP).* Medicaid shall be available to persons under the age of 21 if the following criteria are met:

*a.* Financial eligibility shall be determined for the family size of which the child is a member using the income standards in effect for the family medical assistance program (FMAP) unless otherwise specified. Income shall be considered as provided in rule 441—75.57(249A). Additionally, the earned income disregards as provided in paragraphs 75.57(2)*"a," "b," "c,"* and *"d"* shall be allowed for those persons whose income is considered in establishing eligibility for the persons under the age of 21 and whose needs must be included in accordance with paragraph 75.58(1)*"a"* but who are not eligible for Medicaid. Resources of all persons in the eligible group, regardless of age, shall be disregarded. All persons in the household under the age of 21 shall be considered as though they were dependent children. Unless a family member is voluntarily excluded in accordance with the provisions of rule 441—75.59(249A), family size shall be determined as follows:

(1) If the person under the age of 21 is pregnant and the pregnancy has been verified in accordance with rule 441—75.17(249A), the unborn child (or children if more than one) is considered a member of the family for purposes of establishing the number of persons in the family.

(2) A "man-in-the-house" who is not married to the mother of the unborn child is not considered a member of the unborn child's family for the purpose of establishing the number of persons in the family. His income and resources are not automatically considered, regardless of whether or not he is the legal or natural father of the unborn child. However, income and resources made available to the mother of the unborn child by the "man-in-the-house" shall be considered in determining eligibility for the pregnant individual.

(3) Unless otherwise specified, when the person under the age of 21 is living with a parent(s), the family size shall consist of all family members as defined by the family medical assistance program in accordance with paragraph 75.57(8)"*c*" and subrule 75.58(1).

Application for Medicaid shall be made by the parent(s) when the person is residing with them. A person shall be considered to be living with the parent(s) when the person is temporarily absent from the parent's(s') home as defined in subrule 75.53(4). If the person under the age of 21 is married or has been married, the needs, income and resources of the person's parent(s) and any siblings in the home shall not be considered in the eligibility determination unless the marriage was annulled.

(4) When a person is living with a spouse the family size shall consist of that person, the spouse and any of their children, including any unborn children.

(5) Siblings under the age of 21 who live together shall be considered in the same filing unit for the purpose of establishing eligibility under this rule unless one sibling is married or has been married, in which case, the married sibling shall be considered separately unless the marriage was annulled.

(6) When a person is residing in a household in which some members are receiving FMAP under the provisions of subrule 75.1(14) or MAC under the provisions of subrule 75.1(28), and when the person is not included in the FMAP or MAC eligible group, the family size shall consist of the person and all other family members as defined above except those in the FMAP or MAC eligible group.

*b.* Rescinded IAB 9/6/89, effective 11/1/89.

*c.* Rescinded IAB 11/1/89, effective 1/1/90.

*d.* A person is eligible for the entire month in which the person's twenty-first birthday occurs unless the birthday falls on the first day of the month.

*e.* Living with a specified relative as provided in subrule 75.54(2) and deprivation requirements as provided in subrule 75.54(3) shall not be considered when determining eligibility for persons under this coverage group.

**75.1(16)** Rescinded IAB 10/8/97, effective 12/1/97.

**75.1(17)** *Persons who meet the income and resource requirements of the cash assistance programs.* Medicaid shall be available to the following persons who meet the income and resource guidelines of supplemental security income or refugee cash assistance, but who are not receiving cash assistance:

*a.* Aged and blind persons, as defined at subrule 75.13(2).

*b.* Disabled persons, as defined at rule 441—75.20(249A).

In establishing eligibility for children for this coverage group based on eligibility for SSI, resources of all persons in the eligible group, regardless of age, shall be disregarded. In establishing eligibility for adults for this coverage group, resources shall be considered as provided for SSI-related coverage groups under subrule 75.13(2) or as under refugee cash assistance.

**75.1(18)** *Persons eligible for waiver services.* Medicaid shall be available to recipients of waiver services as defined in 441—Chapter 83.

**75.1(19)** *Persons and families terminated from aid to dependent children (ADC) prior to April 1, 1990, due to discontinuance of the $30 or the $30 and one-third earned income disregards.* Rescinded IAB 6/12/91, effective 8/1/91.

**75.1(20)** *Newborn children of Medicaid-eligible mothers.* Medicaid shall be available without an application to newborn children of women who had applied for Medicaid prior to the end of their pregnancy and were subsequently determined eligible for Medicaid for the month of the child's birth. Eligibility begins with the month of the birth and continues through the month of the first birthday as long as the child lives with the mother and (1) the mother remains eligible for Medicaid or (2) for a child born on or after January 1, 1991, the mother would be eligible under Iowa's state plan if she were still pregnant.

*a.* The newborn's birth date shall be verified in order to establish the effective date for Medicaid.

*b.* In order for Medicaid to continue after the month of the first birthday, a redetermination of eligibility shall be completed.

For the purposes of applying the lump sum provision, household size shall be determined according to the policies in effect for the family medical assistance program, with consideration of paragraph *"e"* of this subrule, unless the person is excluded from the eligible group in accordance with the provisions of rule 441—75.59(249A). During the proration period, persons not considered part of the household at the time the lump sum was received may be eligible for Medicaid as a separate household. Income of this separate household plus income, excluding the prorated lump sum already considered, of the parent or other legally responsible person in the home shall be considered as available in determining eligibility.

(3) Unless otherwise specified, when the person under the age of 19 is living with a parent or parents, the family size shall consist of all family members as defined by the family medical assistance program.

Application for Medicaid shall be made by the parents when the person is residing with them. A person shall be considered to be living with the parents when the person is temporarily absent from the parent's home as defined in subrule 75.53(4). If the person under the age of 19 is married or has been married, the needs, income and resources of the person's parents and any siblings in the home shall not be considered in the eligibility determination unless the marriage was annulled.

(4) When a person under the age of 19 is living with a spouse, the family size shall consist of that person, the spouse, and any of their children.

(5) Siblings under the age of 19 who live together shall be considered in the same filing unit for the purpose of establishing eligibility under this subrule unless one sibling is married or has been married, in which case the married sibling shall be considered separately unless the marriage was annulled.

*b.* For pregnant women, resources shall not exceed $10,000 per household. In establishing eligibility for infants and children for this coverage group, resources of all persons in the eligible group, regardless of age, shall be disregarded. In establishing eligibility for pregnant women for this coverage group, resources shall be considered in accordance with department of public health 641—subrule 75.4(2).

*c.* Rescinded IAB 9/6/89, effective 11/1/89.

*d.* Eligibility for pregnant women under this rule shall begin no earlier than the first day of the month in which conception occurred and in accordance with 441—76.5(249A).

*e.* The unborn child (children if more than one fetus exists) shall be considered when determining the number of persons in the household.

*f.* An infant shall be eligible through the month of the first birthday unless the birthday falls on the first day of the month. A child shall be eligible through the month of the nineteenth birthday unless the birthday falls on the first day of the month.

*g.* Rescinded IAB 11/1/89, effective 1/1/90.

*h.* When determining eligibility under this coverage group, the deprivation requirements specified at subrule 75.54(3), living with a specified relative as specified at subrule 75.54(2), and the student provisions specified in subrule 75.54(1) do not apply.

*i.* A woman who had applied for Medicaid prior to the end of her pregnancy and was subsequently determined eligible for assistance under this coverage group for the month in which her pregnancy ended shall be entitled to receive Medicaid through the postpartum period in accordance with subrule 75.1(24).

*j.* If an infant loses eligibility under this coverage group at the time of the first birthday due to an inability to meet the income limit for children or if a child loses eligibility at the time of the nineteenth birthday, but the infant or child is receiving inpatient services in a medical institution, Medicaid shall continue under this coverage group for the duration of the time continuous inpatient services are provided.

**75.1(29)** *Persons who are entitled to hospital insurance benefits under Part A of Medicare (Qualified Medicare Beneficiary program).* Medicaid shall be available to persons who are entitled to hospital insurance under Part A of Medicare to cover the cost of the Medicare Part A and B premiums, coinsurance and deductibles, providing the following conditions are met:

*a.* The person's monthly income does not exceed the following percentage of the federal poverty level (as defined by the United States Office of Management and Budget and revised annually in accordance with Section 673(2) of the Omnibus Budget Reconciliation Act of 1981) applicable to a family of the size involved:

(1) 85 percent effective January 1, 1989.

(2) 90 percent effective January 1, 1990.

(3) 100 percent effective January 1, 1991, and thereafter.

(4) Rescinded IAB 1/9/91, effective 1/1/91.

*b.* The person's resources do not exceed twice the maximum amount of resources that a person may have and obtain benefits under the Supplemental Security Income (SSI) program.

The amount of income and resources shall be determined as under the SSI program unless the person lives and is expected to live at least 30 consecutive days in a medical institution and has a spouse at home. Then the resource determination shall be made according to subrules 75.5(3) and 75.5(4). Income shall not include any amount of social security income attributable to the cost-of-living increase through the month following the month in which the annual revision of the official poverty line is published.

*c.* The effective date of eligibility is the first of the month after the month of decision.

**75.1(30)** *Presumptive eligibility for pregnant women.* A pregnant woman who is determined by a qualified provider to be presumptively eligible for Medicaid, based only on her statements regarding family income, shall be eligible for ambulatory prenatal care until the last day of the month following the month of the presumptive eligibility determination unless the pregnant woman is determined to be ineligible for Medicaid during this period based on a Medicaid application filed either prior to the presumptive eligibility determination or during this period. In this case, presumptive eligibility shall end on the date Medicaid ineligibility is determined. The pregnant woman shall complete Form 470-2927, Health Services Application, in order for the qualified provider to make the presumptive eligibility determination. The qualified provider shall complete Form 470-2629, Income Calculation Worksheet for Presumptive Medicaid Eligibility Determinations, in order to establish that the pregnant woman's family income is within the prescribed limits of the Medicaid program.

If the pregnant woman files a Medicaid application in accordance with rule 441—76.1(249A) by the last day of the month following the month of the presumptive eligibility determination, Medicaid shall continue until a decision is made on the application. Payment of claims for ambulatory prenatal care services provided to a pregnant woman under this subrule is not dependent upon a finding of Medicaid eligibility for the pregnant woman.

*a.* A qualified provider is defined as a provider who is eligible for payment under the Medicaid program and who meets all of the following criteria:

(1) Provides one or more of the following services:

1. Outpatient hospital services.

2. Rural health clinic services (if contained in the state plan).

3. Clinic services furnished by or under the direction of a physician, without regard to whether the clinic itself is administered by a physician.

*j.* These provisions apply to specified relatives defined at paragraph 75.55(1)*"a,"* including:

(1) Any natural or adoptive parent who is in the home. This includes parents who are included in the eligible group as well as those who are not.

(2) A stepparent who is included in the eligible group and who has assumed the role of the caretaker relative due to the absence or incapacity of the parent.

(3) A needy specified relative who is included in the eligible group.

*k.* The timely notice requirements as provided in 441—subrule 76.4(1) shall not apply when it is determined that the family failed to meet the eligibility criteria specified in paragraph *"g"* or *"i"* above. Transitional Medicaid shall be terminated beginning with the first month following the month in which the family no longer met the eligibility criteria. An adequate notice shall be provided to the family when any adverse action is taken.

**75.1(32)** *Persons and families terminated from refugee cash assistance (RCA) because of income earned from employment.* Refugee medical assistance (RMA) shall be available as long as the eight-month limit for the refugee program is not exceeded to persons who are receiving RMA and who are canceled from the RCA program solely because a member of the eligible group receives income from employment.

*a.* An RCA recipient shall not be required to meet any minimum program participation time frames in order to receive RMA coverage under these provisions.

*b.* A person who returns to the home after the family became ineligible for RCA may be included in the eligible group for RMA coverage if the person was included on the assistance grant the month the family became ineligible for RCA.

**75.1(33)** *Qualified disabled and working persons.* Medicaid shall be available to cover the cost of the premium for Part A of Medicare (hospital insurance benefits) for qualified disabled and working persons.

*a.* Qualified disabled and working persons are persons who meet the following requirements:

(1) The person's monthly income does not exceed 200 percent of the federal poverty level applicable to the family size involved.

(2) The person's resources do not exceed twice the maximum amount allowed under the supplemental security income (SSI) program.

(3) The person is not eligible for any other Medicaid benefits.

(4) The person is entitled to enroll in Medicare Part A of Title XVIII under Section 1818A of the Social Security Act (as added by Section 6012 of OBRA 1989).

*b.* The amount of the person's income and resources shall be determined as under the SSI program.

**75.1(34)** *Specified low-income Medicare beneficiaries.* Medicaid shall be available to persons who are entitled to hospital insurance under Part A of Medicare to cover the cost of the Medicare Part B premium, provided the following conditions are met:

*a.* The person's monthly income exceeds 100 percent of the federal poverty level but is less than the following percentage of the federal poverty level (as defined by the United States Office of Management and Budget and revised annually in accordance with Section 673(2) of the Omnibus Budget Reconciliation Act of 1981) applicable to a family of the size involved:

(1) 110 percent effective January 1, 1993.

(2) 120 percent effective January 1, 1995, and thereafter.

*b.* The person's resources do not exceed twice the maximum amount of resources that a person may have and obtain benefits under the Supplemental Security Income (SSI) program.

*c.* The amount of income and resources shall be determined as under the SSI program unless the person lives and is expected to live at least 30 consecutive days in a medical institution and has a spouse at home. Then the resource determination shall be made according to subrules 75.5(3) and 75.5(4). Income shall not include any amount of social security income attributable to the cost-of-living increase through the month following the month in which the annual revision of the official poverty level is published.

*d.* The effective date of eligibility shall be as set forth in rule 441—76.5(249A).

**75.1(35)** *Medically needy persons.*

*a.* *Coverage groups.* Subject to other requirements of this chapter, Medicaid shall be available to the following persons:

(1) Pregnant women. Pregnant women who would be eligible for FMAP-related coverage groups except for excess income or resources. For FMAP-related programs, pregnant women shall have the unborn child or children counted in the household size as if the child or children were born and living with them.

(2) FMAP-related persons under the age of 19. Persons under the age of 19 who would be eligible for an FMAP-related coverage group except for excess income.

(3) CMAP-related persons under the age of 21. Persons under the age of 21 who would be eligible in accordance with subrule 75.1(15) except for excess income.

(4) SSI-related persons. Persons who would be eligible for SSI except for excess income or resources.

(5) FMAP-specified relatives. Persons whose income or resources exceed the family medical assistance program's limit and who are a specified relative as defined at subrule 75.55(1) living with a child who is determined dependent (or would be if needy) because the child is deprived of parental support or care.

*b.* *Resources and income of all persons considered.*

(1) Resources of all specified relatives and of all potentially eligible individuals living together, except as specified at subparagraph 75.1(35)*"b"*(2) or who are excluded in accordance with the provisions of rule 441—75.59(249A), shall be considered in determining eligibility of adults. Resources of all specified relatives and of all potentially eligible individuals living together shall be disregarded in determining eligibility of children. Income of all specified relatives and of all potentially eligible individuals living together, except as specified at subparagraph 75.1(35)*"b"*(2) or who are excluded in accordance with the provisions of rule 441—75.59(249A), shall be considered in determining eligibility.

(2) The amount of income of the responsible relative that has been counted as available to an FMAP household or SSI individual shall not be considered in determining the countable income for the medically needy eligible group.

(3) The resource determination shall be according to subrules 75.5(3) and 75.5(4) when one spouse is expected to reside at least 30 consecutive days in a medical institution.

*c.* *Resources.*

(1) The resource limit for adults in SSI-related households shall be $10,000 per household.

(2) Disposal of resources for less than fair market value by SSI-related applicants or recipients shall be treated according to policies specified in rule 441—75.23(249A).

(3) The resource limit for FMAP- or CMAP-related adults shall be $10,000 per household. In establishing eligibility for children for this coverage group, resources of all persons in the eligible group, regardless of age, shall be disregarded. In establishing eligibility for adults for this coverage group, resources shall be considered according to department of public health 641—subrule 75.4(2).

(4) The resources of SSI-related persons shall be treated according to SSI policies.

(5) When a resource is jointly owned by SSI-related persons and FMAP-related persons, the resource shall be treated according to SSI policies for the SSI-related person and according to FMAP policies for the FMAP-related persons.

*d.* *Income.* All unearned and earned income, unless specifically exempted, disregarded, deducted for work expenses, or diverted shall be considered in determining initial and continuing eligibility.

*"Qualifying quarters"* includes all of the qualifying quarters of coverage as defined under Title II of the Social Security Act worked by a parent of an alien while the alien was under age 18 and all of the qualifying quarters worked by a spouse of the alien during their marriage if the alien remains married to the spouse or the spouse is deceased. No qualifying quarter of coverage that is creditable under Title II of the Social Security Act for any period beginning after December 31, 1996, may be credited to an alien if the parent or spouse of the alien received any federal means-tested public benefit during the period for which the qualifying quarter is so credited.

**75.11(2)** *Citizenship and alienage.*

*a.* To be eligible for Medicaid a person must be one of the following:

(1) A citizen or national of the United States.

(2) A qualified alien as defined in subrule 75.11(1) residing in the United States prior to August 22, 1996.

(3) A qualified alien who entered the United States on or after August 22, 1996, and who is:

- A refugee who is admitted to the United States under Section 207 of the Immigration and Nationality Act;
- Granted asylum under Section 208 of the Immigration and Nationality Act;
- An alien whose deportation is being withheld under Section 243(h) of the Immigration and Nationality Act; or
- A veteran with a discharge characterized as an honorable discharge and not on account of alienage, an alien who is on active duty in the Armed Forces of the United States other than active duty for training, or the veteran's spouse or unmarried dependent child.

(4) A qualified alien who entered the United States on or after August 22, 1996, and who has resided in the United States for a period of at least five years.

*b.* As a condition of eligibility, each recipient shall complete and sign Form 470-2549, Statement of Citizenship Status, attesting to the recipient's citizenship or alien status. The form shall be signed by the recipient, or when the recipient is incompetent or deceased, someone acting responsibly on the recipient's behalf. When both parents are in the home, both shall sign the form. An adult recipient shall sign the form for dependent children. As a condition of eligibility, all applicants for Medicaid shall attest to their citizenship status by signing the application form which contains the same declaration. As a condition of continued eligibility, recipients of SSI-related Medicaid not actually receiving SSI who have been continuous recipients since August 1, 1988, shall attest to their citizenship status by signing the application form which contains a similar declaration at time of review.

**75.11(3)** *Deeming of sponsor's income and resources.*

*a.* In determining the eligibility and amount of benefits of an alien, the income and resources of the alien shall be deemed to include the following:

(1) The income and resources of any person who executed an affidavit of support pursuant to Section 213A of the Immigration and Nationality Act (as implemented by the Personal Responsibility and Work Reconciliation Act of 1996) on behalf of the alien.

(2) The income and resources of the spouse of the person who executed the affidavit of support.

*b.* When an alien attains citizenship through naturalization pursuant to Chapter 2 of Title III of the Immigration and Nationality Act or has worked 40 qualifying quarters of coverage as defined in Title II of the Social Security Act or can be credited with qualifying quarters as defined at subrule 75.11(1) and, in the case of any qualifying quarter creditable for any period beginning after December 31, 1996, did not receive any federal means-tested public benefits, as defined in subrule 75.11(1), during any period, deeming of the sponsor's income and resources no longer applies.

**75.11(4)** *Eligibility for payment of emergency medical services.* Aliens who do not meet the provisions of subrule 75.11(2) and who would otherwise qualify except for their alienage status are eligible to receive Medicaid for emergency medical care as defined in subrule 75.11(1). To qualify under these provisions, the alien must meet all eligibility criteria, including state residence requirements provided at rules 441—75.10(249A) and 441—75.53(249A). However, the requirements of rule 441—75.7(249A) and subrules 75.11(2) and 75.11(3) do not apply to eligibility for aliens seeking the care and services necessary for the treatment of an emergency medical condition not related to an organ transplant procedure furnished on or after August 10, 1993.

**441—75.12(249A) Persons who enter jails or penal institutions.** A person who enters a jail or penal institution, including a work release center, shall not be eligible for Medicaid.

**441—75.13(249A) Categorical relatedness.**

**75.13(1)** *FMAP-related Medicaid eligibility.* Medicaid eligibility for persons who are under the age of 21, pregnant women, children, or specified relatives of dependent children who are not blind or disabled shall be determined using the income criteria in effect for the family medical assistance program (FMAP) as provided in subrule 75.1(14) unless otherwise specified. Income shall be considered prospectively.

**75.13(2)** *SSI-related Medicaid.* Except as otherwise provided in subrule 75.13(3) and in 441—Chapters 75 and 76, persons who are 65 years of age or older, blind, or disabled are eligible for Medicaid only if eligible for the Supplemental Security Income (SSI) program administered by the United States Social Security Administration. The statutes, regulations, and policy governing eligibility for SSI are found in Title XVI of the Social Security Act (42 U.S.C. Sections 1381 to 1383f), in the federal regulations promulgated pursuant to Title XVI (20 CFR Sections 416.101 to 416.2227), and in Part 5 of the Program Operations Manual System published by the United States Social Security Administration. The Program Operations Manual System is available at Social Security Administration offices in Ames, Burlington, Carroll, Cedar Rapids, Clinton, Creston, Davenport, Decorah, Des Moines, Dubuque, Fort Dodge, Iowa City, Marshalltown, Mason City, Oskaloosa, Ottumwa, Sioux City, Spencer, Storm Lake, and Waterloo, or through the Department of Human Services, Division of Medical Services, Hoover State Office Building, Des Moines, Iowa 50319-0114.

For SSI-related Medicaid eligibility purposes, income shall be considered prospectively.

Income that a person contributes to a trust as specified at 75.24(3)*"b"* shall not be considered for purposes of determining eligibility for SSI-related Medicaid.

For purposes of determining eligibility for SSI-related Medicaid, the SSI conditional eligibility process, by which a client may receive SSI benefits while attempting to sell excess resources, found at 20 CFR 416.1240 to 416.1245, is not considered an eligibility methodology.

In the absence of other evidence, the value of a life estate or remainder interest in property shall be determined using the following table by multiplying the fair market value of the entire underlying property (including all life estates and all remainder interests) by the life estate or remainder interest decimal corresponding to the age of the individual who owns the life estate or remainder interest.

If a Medicaid applicant or recipient disputes the value determined using the following table, the applicant or recipient may submit other evidence and the value of the life estate or remainder interest shall be determined based on the preponderance of all the evidence submitted to or obtained by the department, including the value given by the following table.

| Age | Life Estate | Remainder | Age | Life Estate | Remainder | Age | Life Estate | Remainder |
|---|---|---|---|---|---|---|---|---|
| 0 | .97188 | .02812 | 37 | .93026 | .06974 | 74 | .53862 | .46138 |
| 1 | .98988 | .01012 | 38 | .92567 | .07433 | 75 | .52149 | .47851 |
| 2 | .99017 | .00983 | 39 | .92083 | .07917 | 76 | .51441 | .49559 |
| 3 | .99008 | .00992 | 40 | .91571 | .08429 | 77 | .48742 | .51258 |
| 4 | .98981 | .01019 | 41 | .91030 | .08970 | 78 | .47049 | .52951 |
| 5 | .98938 | .01062 | 42 | .90457 | .09543 | 79 | .45357 | .54643 |
| 6 | .98884 | .01116 | 43 | .89855 | .10145 | 80 | .43569 | .56341 |
| 7 | .98822 | .01178 | 44 | .89221 | .10779 | 81 | .41967 | .58033 |
| 8 | .98748 | .01252 | 45 | .88558 | .11442 | 82 | .40295 | .59705 |
| 9 | .98663 | .01337 | 46 | .87863 | .12137 | 83 | .38642 | .61358 |
| 10 | .98565 | .01435 | 47 | .87137 | .12863 | 84 | .36998 | .63002 |
| 11 | .98453 | .01547 | 48 | .86374 | .13626 | 85 | .35359 | .64641 |
| 12 | .98329 | .01671 | 49 | .85578 | .14422 | 86 | .33764 | .66236 |
| 13 | .98198 | .01802 | 50 | .84743 | .15257 | 87 | .32262 | .67738 |
| 14 | .98066 | .01934 | 51 | .83674 | .16126 | 88 | .30859 | .69141 |
| 15 | .97937 | .02063 | 52 | .82969 | .17031 | 89 | .29526 | .70474 |
| 16 | .97815 | .02185 | 53 | .82028 | .17972 | 90 | .28221 | .71779 |
| 17 | .97700 | .02300 | 54 | .81054 | .18946 | 91 | .26955 | .73045 |
| 18 | .97590 | .02410 | 55 | .80046 | .19954 | 92 | .25771 | .74229 |
| 19 | .97480 | .02520 | 56 | .79006 | .20994 | 93 | .24692 | .75308 |
| 20 | .97365 | .02635 | 57 | .77931 | .22069 | 94 | .23728 | .76272 |
| 21 | .97245 | .02755 | 58 | .76822 | .23178 | 95 | .22887 | .77113 |
| 22 | .97120 | .02880 | 59 | .75675 | .24325 | 96 | .22181 | .77819 |
| 23 | .96986 | .03014 | 60 | .74491 | .25509 | 97 | .21550 | .78450 |
| 24 | .96841 | .03159 | 61 | .73267 | .26733 | 98 | .21000 | .79000 |
| 25 | .96678 | .03322 | 62 | .72002 | .27998 | 99 | .20486 | .79514 |
| 26 | .96495 | .03505 | 63 | .70696 | .29304 | 100 | .19975 | .80025 |
| 27 | .96290 | .03710 | 64 | .69352 | .30648 | 101 | .19532 | .80468 |
| 28 | .96062 | .03938 | 65 | .67970 | .32030 | 102 | .19054 | .80946 |
| 29 | .95813 | .04187 | 66 | .66551 | .33449 | 103 | .18437 | .81563 |
| 30 | .95543 | .04457 | 67 | .65098 | .343902 | 104 | .17856 | .82144 |
| 31 | .95254 | .04746 | 68 | .63610 | .363690 | 105 | .16962 | .83038 |
| 32 | .94942 | .05058 | 69 | .62086 | .37914 | 106 | .15488 | .84512 |
| 33 | .94608 | .05392 | 70 | .60522 | .39478 | 107 | .13409 | .86591 |
| 34 | .94250 | .05750 | 71 | .58914 | .41086 | 108 | .10068 | .89932 |
| 35 | .93868 | .06132 | 72 | .57261 | .42739 | 109 | .04545 | .95455 |
| 36 | .93460 | .06540 | 73 | .55571 | .44429 | | | |

**75.13(3)** *Resource eligibility for SSI-related Medicaid for children.* Resources of all household members shall be disregarded when determining eligibility for children under any SSI-related coverage group except for those groups at subrules 75.1(3), 75.1(4), 75.1(6), 75.1(9), 75.1(10), 75.1(12), 75.1(13), 75.1(23), 75.1(25), 75.1(29), 75.1(33), 75.1(34), 75.1(36), 75.1(37), and 75.1(38).

**441—75.14(249A) Establishing paternity and obtaining support.**

**75.14(1)** As a condition of eligibility, applicants and recipients of Medicaid in households with an absent parent shall cooperate in obtaining medical support for the applicant or recipient as well as for any other person in the household for whom Medicaid is requested and for whom the person can legally assign rights for medical support, except when good cause as defined in subrule 75.14(8) for refusal to cooperate is established.

*a.* The applicant or recipient shall cooperate in the following:

(1) Identifying and locating the parent of the child for whom Medicaid is requested.

(2) Establishing the paternity of a child born out of wedlock for whom Medicaid is requested.

(3) Obtaining medical support and payments for medical care for the applicant or recipient and for a child for whom Medicaid is requested.

(4) Rescinded IAB 2/3/93, effective 4/1/93.

*"Recipient"* means a person for whom Medicaid is received as well as parents living in the home with the eligible children and other specified relatives as defined in subrule 75.55(1) who are receiving Medicaid for the children. Unless otherwise specified, a person is not a recipient for any month in which the assistance issued for that person is subject to recoupment because the person was ineligible.

*"Report month"* for retrospective budgeting means the calendar month following the budget month. "Report month" for prospective budgeting means the calendar month in which a change occurs.

*"Retrospective budgeting"* means the calculation of eligibility for a month based on actual income and circumstances which existed in the budget month.

*"Schedule of needs"* means the total needs of a group as determined by the schedule of living costs, described at subrule 75.58(2).

*"Stepparent"* means a person who is the legal spouse of the child's natural or adoptive parent by ceremonial or common-law marriage.

*"Suspension"* means a month in which an otherwise ineligible household continues to remain eligible for one month when eligibility is expected to exist the following month.

*"Unborn child"* shall include an unborn child during the entire term of the pregnancy.

*"Uniformed service"* means the Army, Navy, Air Force, Marine Corps, Coast Guard, National Oceanographic and Atmospheric Administration, or Public Health Service of the United States.

**441—75.51(249A) Reinstatement of eligibility.** Eligibility for the family medical assistance program (FMAP) and FMAP-related programs shall be reinstated without a new application when all necessary information is provided at least three working days before the effective date of cancellation and eligibility can be reestablished, except as provided in the transitional Medicaid program in accordance with subparagraph 75.1(31)*"j"*(2).

Assistance may be reinstated without a new application when all necessary information is provided after the third working day but before the effective date of cancellation and eligibility can be reestablished before the effective date of cancellation.

When all eligibility factors are met, assistance shall be reinstated when a completed Public Assistance Eligibility Report, Form PA-2140-0, or a Review/Recertification Eligibility Document, Form 470-2881, is received by the county office within ten days of the date a cancellation notice is sent to the recipient because the form was incomplete or not returned.

**441—75.52(249A) Continuing eligibility.**

**75.52(1)** *Reviews.* Eligibility factors shall be reviewed at least every six months for the family medical assistance program and family medical assistance-related programs. A semiannual review shall be conducted using information contained in and verification supplied with Form 470-0455, Public Assistance Eligibility Report. A face-to-face interview shall be conducted at least annually at the time of a review for adults using information contained in and verification supplied with Form 470-2881, Review/Recertification Eligibility Document.

*a.* Any assistance unit with one or more of the following characteristics shall report monthly:

(1) The assistance unit contains any member with earned income unless the income is either exempt or the only earned income is from annualized self-employment.

(2) The assistance unit contains any member with a recent work history. A recent work history means the person received earned income during either one of the two calendar months immediately preceding the budget month, unless the income was either exempt or the only earned income was from annualized self-employment.

(3) The assistance unit contains any member receiving nonexempt unearned income, the source or amount of which is expected to change more often than once annually, unless the income is from job insurance benefits or interest; or unless the assistance unit's adult members are 60 years old or older, or are receiving disability or blindness payments under Titles I, II, X, XIV, or XVI of the Social Security Act; or unless all adults, who would otherwise be members of the assistance unit, are receiving Supplemental Security Income (SSI) including state supplementary assistance (SSA).

(4) The assistance unit contains any member residing out of state on a temporary basis.

*b.* The assistance unit subject to monthly reporting shall complete a Public Assistance Eligibility Report (PAER), Form PA-2140-0, for each budget month, unless the assistance unit is required to complete Form 470-2881, Review/Recertification Eligibility Document (RRED) for that month. The PAER shall be signed by the recipient, the recipient's authorized representative or, when the recipient is incompetent or incapacitated, someone acting responsibly on the recipient's behalf. When both parents or a parent and a stepparent are in the home, both shall sign the form.

**75.52(2)** *Additional reviews.* A redetermination of specific eligibility factors shall be made when:

*a.* The recipient reports a change in circumstances, or

*b.* A change in the recipient's circumstances comes to the attention of a staff member.

**75.52(3)** *Forms.* Information for semiannual reviews shall be submitted on Form PA-2140-0, Public Assistance Eligibility Report (PAER). Information for the annual face-to-face determination interview shall be submitted on Form 470-2881, Review/Recertification Eligibility Document (RRED). When the client has completed Form PA-2207-0, Public Assistance Application, for another purpose, this form may be used as the review document for the semiannual or annual review.

**75.52(4)** *Recipient responsibilities.* Responsibilities of recipients (including individuals in suspension status). For the purposes of this subrule, recipients shall include persons who received assistance subject to recoupment because the persons were ineligible.

*a.* The recipient shall cooperate by giving complete and accurate information needed to establish eligibility.

*b.* The recipient shall complete Form PA-2140-0, Public Assistance Eligibility Report (PAER), or Form 470-2881, Review/Recertification Eligibility Document (RRED), when requested by the county office in accordance with these rules. Either form will be supplied as needed to the recipient by the department. The department shall pay the cost of postage to return the form. When the form is issued in the department's regular end-of-month mailing, the recipient shall return the completed form to the county office by the fifth calendar day of the report month. When the form is not issued in the department's regular end-of-month mailing, the recipient shall return the completed form to the county office by the seventh day after the date it is mailed by the department. The county office shall supply the recipient with a PAER or a RRED upon request. Failure to return a completed form shall result in cancellation of assistance. A completed form is a form with all items answered, signed, dated no earlier than the first day of the budget month and accompanied by verification as required in paragraphs 75.57(1)*"f"* and 75.57(2)*"l."*

*c.* The recipient, or an individual being added to the existing eligible group, shall timely report any change in the following circumstances:

(1) Income from all sources, including any change in care expenses.

(2) Resources.

(3) Members of the household.

(4) School attendance.

(5) Becoming incapacitated or recovery from incapacity.

(6) Change of mailing or living address.

(7) Payment of child support.

(8) Receipt of a social security number.

(9) Payment for child support, alimony, or dependents as defined in paragraph 75.57(8)*"b."*

*d.* A report shall be considered timely when made within ten days from:

(1) The receipt of resources, income, or increased or decreased income.

(2) The date care expenses increase or decrease.

(3) The date the address changes.

(4) The date the child is officially dropped from the school rolls.

(5) The date the person enters or leaves the household.

(6) The date medical or psychological evidence indicates a person becomes incapacitated or recovers from incapacity.

(7) The date the client increases or decreases child support payments.

(8) The receipt of a social security number.

(9) The date a stepparent described in paragraph 75.57(8)*"b"* or an underage parent described in paragraph 75.57(8)*"c"* increases or decreases payments for child support, alimony or dependents.

*e.* When a change is not timely reported, any excess Medicaid paid shall be subject to recovery.

**75.52(5)** *Effective date.* After assistance has been approved, eligibility for continuing assistance shall be effective as of the first of each month. Any change affecting eligibility reported during a month shall be effective the first day of the next calendar month, subject to timely notice requirements at rule 441—7.6(217) for any adverse actions.

*a.* Any change not reported prospectively in the budget month and reported on the Public Assistance Eligibility Report (PAER), Form PA-2140-0, or the Review/Recertification Eligibility Document (RRED), Form 470-2881, shall be effective for the corresponding benefit month. When the change creates ineligibility for more than one month, eligibility under the current coverage group shall be canceled and an automatic redetermination of eligibility shall be completed in accordance with rule 441—76.11(249A).

*b.* When the recipient timely reports, as defined in 441—subrule 76.2(5) or paragraph 75.52(4)*"d,"* a change in income or circumstances during the first initial month of eligibility, prospective eligibility for the second initial month shall be determined based on the change.

*c.* When an individual included in the eligible group becomes ineligible, that individual's needs shall be removed prospectively effective the first of the next month unless the action must be delayed due to timely notice requirements at rule 441—7.6(217).

**441—75.53(249A) Iowa residency policies specific to FMAP and FMAP-related coverage groups.** Notwithstanding the provisions of rule 441—75.10(249A), the following rules shall apply when determining eligibility for persons under FMAP or FMAP-related coverage groups.

**75.53(1)** *Definition of resident.* A resident of Iowa is one:

*a.* Who is living in Iowa voluntarily with the intention of making that person's home there and not for a temporary purpose. A child is a resident of Iowa when living there on other than a temporary basis. Residence may not depend upon the reason for which the individual entered the state, except insofar as it may bear upon whether the individual is there voluntarily or for a temporary purpose; or

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

**75.53(2)** *Retention of residence.* Residence is retained until abandoned. Temporary absence from Iowa, with subsequent returns to Iowa, or intent to return when the purposes of the absence have been accomplished does not interrupt continuity of residence.

**75.53(3)** *Suitability of home.* The home shall be deemed suitable until the court has ruled it unsuitable and, as a result of such action, the child has been removed from the home.

**75.53(4)** *Temporary absence from the home.* The needs of an individual who is temporarily out of the home are included in the eligible group unless the person is in a jail or penal institution, including a work release center, in accordance with the provisions of rule 441—75.12(249A) or is excluded from the eligible group in accordance with the provisions of rule 441—75.59(249A). A temporary absence exists in the following circumstances.

*a.* An individual is anticipated to be in the medical institution for less than a year, as verified by a physician's statement. Failure to return within one year from the date of entry into the medical institution will result in the individual's needs being removed from the eligible group.

*b.* When an individual is out of the home to secure education or training, as defined for children in paragraph 75.54(1)*"b"* and for adults in 441—subrule 93.114(1), first sentence, as long as the specified relative retains supervision of the child.

*c.* An individual is out of the home for reasons other than reasons in paragraphs *"a"* and *"b"* and intends to return to the home within three months. Failure to return within three months from the date the individual left the home will result in the individual's needs being removed from the eligible group.

**441—75.54(249A) Eligibility factors specific to child.**

**75.54(1)** *Age.* Unless otherwise specified at rule 441—75.1(249A), Medicaid shall be available to a needy child under the age of 18 years without regard to school attendance.

*a.* A child is eligible for the entire month in which the child's eighteenth birthday occurs, unless the birthday falls on the first day of the month.

*b.* Medicaid shall also be available to a needy child aged 18 years who is a full-time student in a secondary school, or in the equivalent level of vocational or technical training, and who is reasonably expected to complete the program before reaching the age of 19 if the following criteria are met.

(1) A child shall be considered attending school full-time when enrolled or accepted in a full-time (as certified by the school or institute attended) elementary, secondary or the equivalent level of vocational or technical school or training leading to a certificate or diploma. Correspondence school is not an allowable program of study.

**75.54(4)** *Assistance continued.* For coverage groups which require that a child be deprived as a condition of eligibility, an adjustment period following the incapacitated parent's recovery or the absent parent's return home shall continue for only as long as is necessary to determine whether there is eligibility on the basis of parental unemployment. When deprivation on the basis of unemployment cannot be established, assistance shall be continued for a maximum of three months. When the three-month adjustment period expires, eligibility shall be reexamined in accordance with the automatic redetermination provisions of rule 441—76.11(249A).

**441—75.55(249A) Eligibility factors specific to specified relatives.**

**75.55(1)** *Specified relationship.*

*a.* A child may be considered as meeting the requirement of living with a specified relative if the child's home is with one of the following or with a spouse of the relative even though the marriage is terminated by death or divorce:

Father or adoptive father.

Mother or adoptive mother.

Grandfather or grandfather-in-law, meaning the subsequent husband of the child's natural grandmother, i.e., stepgrandfather or adoptive grandfather.

Grandmother or grandmother-in-law, meaning the subsequent wife of the child's natural grandfather, i.e., stepgrandmother or adoptive grandmother.

Great-grandfather or great-great-grandfather.

Great-grandmother or great-great-grandmother.

Stepfather, but not his parents.

Stepmother, but not her parents.

Brother, brother-of-half-blood, stepbrother, brother-in-law or adoptive brother.

Sister, sister-of-half-blood, stepsister, sister-in-law or adoptive sister.

Uncle or aunt, of whole or half blood.

Uncle-in-law or aunt-in-law.

Great uncle or great-great-uncle.

Great aunt or great-great-aunt.

First cousins, nephews, or nieces.

*b.* A relative of the putative father can qualify as a specified relative if the putative father has acknowledged paternity by the type of written evidence on which a prudent person would rely.

**75.55(2)** *Liability of relatives.* All appropriate steps shall be taken to secure support from legally liable persons on behalf of all persons in the eligible group, including the establishment of paternity as provided in rule 441—75.14(249A).

*a.* When necessary to establish eligibility, the county office shall make the initial contact with the absent parent at the time of application. Subsequent contacts shall be made by the child support recovery unit.

*b.* When contact with the family or other sources of information indicates that relatives other than parents and spouses of the eligible children are contributing toward the support of members of the eligible group, have contributed in the past, or are of such financial standing they might reasonably be expected to contribute, the county office shall contact these persons to verify current contributions or arrange for contributions on a voluntary basis.

**441—75.56(249A) Resources.**

**75.56(1)** *Limitation.* Unless otherwise specified, an applicant or recipient may have the following resources and be eligible for the family medical assistance program (FMAP) or FMAP-related programs. Any resource not specifically exempted shall be counted toward the applicable resource limit when determining eligibility for adults. All resources shall be disregarded when determining eligibility for children.

*a.* A homestead without regard to its value. A mobile home or similar shelter shall be considered as a homestead when it is occupied by the recipient. Temporary absence from the homestead with a defined purpose for the absence and with intent to return when the purpose of the absence has been accomplished shall not be considered to have altered the exempt status of the homestead. Except as described at paragraph 75.56(1)*"n"* or *"o,"* the net market value of any other real property shall be considered with personal property.

*b.* Household goods and personal effects without regard to their value. Personal effects are personal or intimate tangible belongings of an individual, especially those that are worn or carried on the person, which are maintained in one's home, and include clothing, books, grooming aids, jewelry, hobby equipment, and similar items.

*c.* Life insurance which has no cash surrender value. The owner of the life insurance policy is the individual paying the premium on the policy with the right to change the policy as the individual sees fit.

*d.* An equity not to exceed a value of $3,000 in one motor vehicle for each adult and working teenage child whose resources must be considered as described in subrule 75.56(2). The disregard shall be allowed when the working teenager is temporarily absent from work. The equity value in excess of $3,000 of any vehicle shall be counted toward the resource limit in paragraph 75.56(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 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.

*e.* A reserve of other property, real or personal, not to exceed $2,000 for applicant assistance units and $5,000 for recipient assistance units.

EXCEPTION: Applicant assistance units with at least one member who was a recipient in Iowa in the month prior to the month of application are subject to the $5,000 limit.

Resources of the applicant or the recipient shall be determined in accordance with persons considered, as described at subrule 75.56(2).

*f.* Money which is counted as income in a month, during that same month; and that part of lump sum income defined at subparagraph 75.57(9)*"c"*(2) reserved for the current or future month's income.

*g.* Payments which are exempted for consideration as income and resources under subrule 75.57(6).

*h.* An equity not to exceed $1,500 in one funeral contract or burial trust for each member of the eligible group. Any amount in excess of $1,500 shall be counted toward resource limits unless it is established that the funeral contract or burial trust is irrevocable.

*i.* One burial plot for each member of the eligible group. A burial plot is defined as a conventional gravesite, crypt, mausoleum, urn, or other repository which is customarily and traditionally used for the remains of a deceased person.

*j.* Settlements for payment of medical expenses.

*k.* Life estates.

*l.* Earned income credit payments in the month of receipt and the following month, regardless of whether these payments are received with the regular paychecks or as a lump sum with the federal income tax refund.

*m.* The balance in an individual development account (IDA), including interest earned on the IDA.

*n.* An equity not to exceed $10,000 for tools of the trade or capital assets of self-employed households.

When the value of any resource is exempted in part, that portion of the value which exceeds the exemption shall be considered in calculating whether the eligible group's property is within the reserve defined in paragraph *"e."*

*o.* Nonhomestead property that produces income consistent with the property's fair market value.

**75.56(2)** *Persons considered.*

*a.* Resources of persons in the eligible group shall be considered in establishing property limits.

*b.* Resources of the parent who is living in the home with the eligible children but whose needs are excluded from the eligible group shall be considered in the same manner as if the parent were included in the eligible group.

*c.* Resources of the stepparent living in the home shall not be considered when determining eligibility of the eligible group, with one exception: The resources of a stepparent included in the eligible group shall be considered in the same manner as a parent.

*d.* The resources of supplemental security income (SSI) recipients shall not be counted in establishing property limitations. When property is owned by both the SSI beneficiary and a Medicaid recipient in another eligible group, each shall be considered as having a half interest in order to determine the value of the resource, unless the terms of the deed or purchase contract clearly establish ownership on a different proportional basis.

*e.* The resources of a nonparental specified relative who elects to be included in the eligible group shall be considered in the same manner as a parent.

**75.56(3)** *Homestead defined.* The homestead consists of the house, used as a home, and may contain one or more contiguous lots or tracts of land, including buildings and appurtenances. When within a city plat, it shall not exceed ½ acre in area. When outside a city plat it shall not contain, in the aggregate, more than 40 acres. When property used as a home exceeds these limitations, the equity value of the excess property shall be determined in accordance with subrule 75.56(5).

**75.56(4)** *Liquidation.* When proceeds from the sale of resources or conversion of a resource to cash, together with other nonexempted resources, exceed the property limitations, the recipient is ineligible to receive assistance until the amount in excess of the resource limitation has been expended unless immediately used to purchase a homestead, or reduce the mortgage on a homestead.

*a.* Property settlements. Property settlements which are part of a legal action in a dissolution of marriage or palimony suit are considered as resources upon receipt.

*b.* Property sold under installment contract. Property sold under an installment contract or held as security in exchange for a price consistent with its fair market value is exempt as a resource. If the price is not consistent with the contract's fair market value, the resource value of the installment contract is the gross price for which it can be sold or discounted on the open market, less any legal debts, claims, or liens against the installment contract.

Payments from property sold under an installment contract are exempt as income as specified in paragraphs 75.57(1)*"d"* and 75.57(7)*"ag."* The portion of any payment received representing principal is considered a resource upon receipt. The interest portion of the payment is considered a resource the month following the month of receipt.

**75.56(5)** *Net market value defined.* Net market value is the gross price for which property or an item can currently be sold on the open market, less any legal debts, claims, or liens against the property or item.

**75.56(6)** *Availability.*

*a.* A resource must be available in order for it to be counted toward resource limitations. A resource is considered available under the following circumstances:

(1) The applicant or recipient owns the property in part or in full and has control over it. That is, it can be occupied, rented, leased, sold, or otherwise used or disposed of at the individual's discretion.

(2) The applicant or recipient has a legal interest in a liquidated sum and has the legal ability to make the sum available for support and maintenance.

*b.* Rescinded IAB 6/30/99, effective 9/1/99.

*c.* When property is owned by more than one person, unless otherwise established, it is assumed that all persons hold equal shares in the property.

*d.* When the applicant or recipient owns nonhomestead property, the property shall be considered exempt for so long as the property is publicly advertised for sale at an asking price that is consistent with its fair market value.

**75.56(7)** *Damage judgments and insurance settlements.*

*a.* Payment resulting from damage to or destruction of an exempt resource shall be considered a resource to the applicant or recipient the month following the month the payment was received. When the applicant or recipient signs a legal binding commitment no later than the month after the month the payment was received, the funds shall be considered exempt for the duration of the commitment providing the terms of the commitment are met within eight months from the date of commitment.

*b.* Payment resulting from damage to or destruction of a nonexempt resource shall be considered a resource in the month following the month in which payment was received.

**75.56(8)** *Conservatorships.*

*a.* Conservatorships established prior to February 9, 1994. The department shall determine whether assets from a conservatorship, except one established solely for the payment of medical expenses, are available by examining the language of the order establishing the conservatorship.

Funds clearly conserved and available for care, support, or maintenance shall be considered toward resource or income limitations.

When the county office questions whether the funds in a conservatorship are available, the county office shall refer the conservatorship to central office. When assets in the conservatorship are not clearly available, central office staff may contact the conservator and request that the funds in the conservatorship be made available for current support and maintenance. When the conservator chooses not to make the funds available, the department may petition the court to have the funds released either partially or in their entirety or as periodic income payments. Funds in a conservatorship that are not clearly available shall be considered unavailable until the conservator or court actually makes the funds available. Payments received from the conservatorship for basic or special needs are considered income.

*b.* Conservatorships established on or after February 9, 1994. Conservatorships established on or after February 9, 1994, shall be treated according to the provisions of paragraphs 75.24(1)*"e"* and 75.24(2)*"b."*

**75.56(9)** *Not considered a resource.* Inventories and supplies, exclusive of capital assets, that are required for self-employment shall not be considered a resource. Inventory is defined as all unsold items, whether raised or purchased, that are held for sale or use and shall include, but not be limited to, merchandise, grain held in storage and livestock raised for sale. Supplies are items necessary for the operation of the enterprise, such as lumber, paint, and seed. Capital assets are those assets which, if sold at a later date, could be used to claim capital gains or losses for federal income tax purposes. When self-employment is temporarily interrupted due to circumstances beyond the control of the household, such as illness, inventory or supplies retained by the household shall not be considered a resource.

*f.* The applicant or recipient shall cooperate in supplying verification of all unearned income. When the information is available, the county office shall verify job insurance benefits by using information supplied to the department by Iowa workforce development. When the county office uses this information as verification, job insurance benefits shall be considered received the second day after the date the check was mailed by Iowa workforce development. When the second day falls on a Sunday or federal legal holiday, the time shall be extended to the next mail delivery day. When the client notifies the county office that the amount of job insurance benefits used is incorrect, the client shall be allowed to verify the discrepancy. The client must report the discrepancy prior to the eligibility month or within ten days of the date on the Notice of Decision, Form PA-3102-0, applicable to the eligibility month, whichever is later.

**75.57(2)** *Earned income.* Earned income is defined as income in the form of a salary, wages, tips, bonuses, commission earned as an employee, income from Job Corps, or profit from self-employment. Earned income from commissions, wages, tips, bonuses, Job Corps, or salary means the total gross amount irrespective of the expenses of employment. With respect to self-employment, earned income means the profit determined by comparing gross income with the allowable costs of producing the income. Income shall be considered earned income when it is produced as a result of the performance of services by an individual.

*a.* Each person in the assistance unit whose gross nonexempt earned income, earned as an employee or net profit from self-employment, considered in determining eligibility is entitled to one 20 percent earned income deduction of nonexempt monthly gross earnings. The deduction is intended to include work-related expenses other than child care. These expenses shall include, but are not limited to, all of the following: taxes, transportation, meals, uniforms, and other work-related expenses.

*b.* Each person in the assistance unit is entitled to a deduction for care expenses subject to the following limitations.

Persons in the eligible group and excluded parents shall be allowed care expenses for a child or incapacitated adult in the eligible group.

Stepparents as described at paragraph 75.57(8)*"b"* and self-supporting parents on underage parent cases as described at paragraph 75.57(8)*"c"* shall be allowed child care expenses for the ineligible dependents of the stepparent or self-supporting parent.

(1) Child care or care for an incapacitated adult shall be considered a work expense in the amount paid for care of an individual, not to exceed $175, or $200 in the case of a child under the age of two, per month or the going rate in the community, whichever is less.

(2) Rescinded IAB 6/30/99, effective 9/1/99.

(3) The deduction is allowable only when the care covers the actual hours of the individual's employment plus a reasonable period of time for commuting; or the period of time when the individual who would normally care for the child or incapacitated adult is employed at such hours that the individual is required to sleep during the waking hours of the child or incapacitated adult, excluding any hours a child is in school.

(4) Any special needs of a physically or mentally handicapped child or adult shall be taken into consideration in determining the deduction allowed.

(5) The expense shall be verified by receipt or a statement from the provider of care and shall be allowed when paid to any person except a parent or legal guardian of the child or another member of the eligible group, or to any person whose needs are met by diversion of income from any person in the eligible group.

*c.* After deducting the allowable work expenses as defined at paragraphs 75.57(2)*"a"* and *"b"* and income diversions as defined at subrules 75.57(4) and 75.57(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 for the family medical assistance program (FMAP) and those FMAP-related coverage groups subject to the three-step process for determining initial eligibility as described at rule 441—75.57(249A). The 50 percent work incentive deduction is not time-limited. Initial eligibility under the first two steps of the three-step process is determined without the application of the 50 percent work incentive deduction as described at subparagraphs 75.57(9)*"a"*(2) and (3).

Individuals whose needs have been removed from the eligible group for refusing to cooperate in applying for or accepting benefits from other sources, in accordance with the provisions of rule 441—75.2(249A), 441—75.3(249A), or 441—75.21(249A), are eligible for the 50 percent work incentive deduction but the individual is not eligible for Medicaid.

*d.* Rescinded IAB 6/30/99, effective 9/1/99.

*e.* A person is considered self-employed when the person:

(1) Is not required to report to the office regularly except for specific purposes such as sales training meetings, administrative meetings, or evaluation sessions.

(2) Establishes the person's own working hours, territory, and methods of work.

(3) Files quarterly reports of earnings, withholding payments, and FICA payments to the Internal Revenue Service.

*f.* The net profit from self-employment income in a non-home-based operation shall be determined by deducting only the following expenses that are directly related to the production of the income:

(1) The cost of inventories and supplies purchased that are required for the business, such as items for sale or consumption and raw materials.

(2) Wages, commissions, and mandated costs relating to the wages for employees of the self-employed.

(3) The cost of shelter in the form of rent, the interest on mortgage or contract payments; taxes; and utilities.

(4) The cost of machinery and equipment in the form of rent or the interest on mortgage or contract payments.

(5) Insurance on the real or personal property involved.

(6) The cost of any repairs needed.

(7) The cost of any travel required.

(8) Any other expense directly related to the production of income, except the purchase of capital equipment and payment on the principal of loans for capital assets and durable goods or any cost of depreciation.

*g.* When the client is renting out apartments in the client's home, the following shall be deducted from the gross rentals received to determine the profit:

(1) Shelter expense in excess of that set forth on the chart of basic needs components at subrule 75.58(2) for the eligible group.

(2) That portion of expense for utilities furnished to tenants which exceeds the amount set forth on the chart of basic needs components at subrule 75.58(2).

(3) Ten percent of gross rentals to cover the cost of upkeep.

*h.* In determining profit from furnishing board, room, operating a family life home, or providing nursing care, the following amounts shall be deducted from the payments received:

(1) $41 plus an amount equivalent to the monthly maximum food stamp allotment in the food stamp program for a one-member household for a boarder and roomer or an individual in the home to receive nursing care, or $41 for a roomer, or an amount equivalent to the monthly maximum food stamp allotment in the food stamp program for a one-member household for a boarder.

(2) Ten percent of the total payment to cover the cost of upkeep for individuals receiving a room or nursing care.

*i.* Gross income from providing child care in the applicant's or recipient's own home shall include the total payments received for the service and any payment received due to the Child Nutrition Amendments of 1978 for the cost of providing meals to children. In determining profit from providing child care services in the applicant's or recipient's own home, 40 percent of the total gross income received shall be deducted to cover the costs of producing the income, unless the individual requests to have actual expenses in excess of the 40 percent considered. When the applicant or recipient requests to have expenses in excess of the 40 percent considered, profit shall be determined in the same manner as specified at paragraph 75.57(2)*"j."*

*j.* In determining profit for a self-employed enterprise in the home other than providing room and board, renting apartments or providing child care services, the following expenses shall be deducted from the income received:

(1) The cost of inventories and supplies purchased that are required for the business, such as items for sale or consumption and raw materials.

(2) Wages, commissions, and mandated costs relating to the wages for employees.

(3) The cost of machinery and equipment in the form of rent; or the interest on mortgage or contract payment; and any insurance on such machinery equipment.

(4) Ten percent of the total gross income to cover the costs of upkeep when the work is performed in the home.

(5) Any other direct cost involved in the production of the income, except the purchase of capital equipment and payment on the principal of loans for capital equipment and payment on the principal of loans for capital assets and durable goods or any cost of depreciation.

*k.* Rescinded IAB 6/30/99, effective 9/1/99.

*l.* The applicant or recipient shall cooperate in supplying verification of all earned income. A self-employed individual shall keep any records necessary to establish eligibility.

**75.57(3)** *Shared living arrangements.* When an applicant or recipient shares living arrangements with another family or person, funds combined to meet mutual obligations for shelter and other basic needs are not income. Funds made available to the applicant or recipient, exclusively for the applicant's or recipient's needs, are considered income.

**75.57(4)** *Diversion of income.*

*a.* Nonexempt earned and unearned income of the parent shall be diverted to meet the unmet needs of the dependent, but ineligible children of the parent living in the family group. Income of the parent shall be diverted to meet the unmet needs of the ineligible children of the parent and a companion in the home only when the income and resources of the companion and the children are within family medical assistance program standards. The maximum income that shall be diverted to meet the needs of the dependent but ineligible children shall be the difference between the needs of the eligible group if the ineligible children were included and the needs of the eligible group with the ineligible children excluded, except as specified at paragraph 75.57(8)*"b."*

*b.* Nonexempt earned and unearned income of the parent shall be diverted to permit payment of court-ordered support to children not living with the parent when the payment is actually being made.

**75.57(5)** *Income of unmarried specified relatives under the age of 19.*

*a.* Income of the unmarried specified relative under the age of 19 when that specified relative lives with a parent who receives coverage under family medical assistance-related programs or lives with a nonparental relative or in an independent living arrangement.

(1) The income of the unmarried, underage specified relative who is also an eligible child in the eligible group of the specified relative's parent shall be treated in the same manner as that of any other child. The income for the unmarried, underage specified relative who is not an eligible child in the eligible group of the specified relative's parent shall be treated in the same manner as though the specified relative had attained majority.

(2) The income of the unmarried, underage specified relative living with a nonparental relative or in an independent living arrangement shall be treated in the same manner as though the specified relative had attained majority.

*b.* Income of the unmarried specified relative under the age of 19 who lives in the same home as a self-supporting parent. The income of the unmarried specified relative under the age of 19 living in the same home as a self-supporting parent shall be treated in accordance with subparagraphs (1), (2), and (3) below.

(1) When the unmarried specified relative is under the age of 18 and not a parent of the dependent child, the income of the specified relative shall be exempt.

(2) When the unmarried specified relative is under the age of 18 and a parent of the dependent child, the income of the specified relative shall be treated in the same manner as though the specified relative had attained majority. The income of the specified relative's self-supporting parents shall be treated in accordance with paragraph 75.57(8)*"c."*

(3) When the unmarried specified relative is 18 years of age, the specified relative's income shall be treated in the same manner as though the specified relative had attained majority.

**75.57(6)** *Exempt as income and resources.* The following shall be exempt as income and resources:

*a.* Food reserves from home-produced garden products, orchards, domestic animals, and the like, when used by the household for its own consumption.

*b.* The value of the coupon allotment in the food stamp program.

*c.* The value of the United States Department of Agriculture donated foods (surplus commodities).

*d.* The value of supplemental food assistance received under the Child Nutrition Act and the special food service program for children under the National School Lunch Act.

*e.* Any benefits received under Title III-C, Nutrition Program for the Elderly, of the Older Americans Act.

*f.* Benefits paid to eligible households under the Low Income Home Energy Assistance Act of 1981.

*g.* Any payment received under Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 and the Federal-Aid Highway Act of 1968.

*h.* Any judgment funds that have been or will be distributed per capita or held in trust for members of any Indian tribe. When the payment, in all or part, is converted to another type of resource, that resource is also exempt.

*i.* Payments to volunteers participating in the Volunteers in Service to America (VISTA) program, except that this exemption will not be applied when the director of ACTION determines that the value of all VISTA payments, adjusted to reflect the number of hours the volunteers are serving, is equivalent to or greater than the minimum wage then in effect under the Fair Labor Standards Act of 1938, or the minimum wage under the laws of the state where the volunteers are serving, whichever is greater.

*j.* Payments for supporting services or reimbursement of out-of-pocket expenses received by volunteers in any of the programs established under Titles II and III of the Domestic Volunteer Services Act.

*k.* Tax-exempt portions of payments made pursuant to the Alaskan Native Claims Settlement Act.

*l.* Experimental housing allowance program payments made under annual contribution contracts entered into prior to January 1, 1975, under Section 23 of the U.S. Housing Act of 1936 as amended.

*m.* The income of a supplemental security income recipient.

*n.* Income of an ineligible child.

*o.* Income in-kind.

*p.* Family support subsidy program payments.

*q.* Grants obtained and used under conditions that preclude their use for current living costs.

*r.* All earned and unearned educational funds of an undergraduate or graduate student or a person in training. Any extended social security or veterans benefits received by a parent or nonparental relative as defined at subrule 75.55(1), conditional to school attendance, shall be exempt. However, any additional amount received for the person's dependents who are in the eligible group shall be counted as nonexempt income.

*s.* Rescinded IAB 2/11/98, effective 2/1/98.

*t.* Any income restricted by law or regulation which is paid to a representative payee, living outside the home, other than a parent who is the applicant or recipient, unless the income is actually made available to the applicant or recipient by the representative payee.

*u.* The first $50 received by the eligible group which represents a current monthly support obligation or a voluntary support payment, paid by a legally responsible individual, but in no case shall the total amount exempted exceed $50 per month per eligible group.

*v.* Bona fide loans. Evidence of a bona fide loan may include any of the following:

(1) The loan is obtained from an institution or person engaged in the business of making loans.

(2) There is a written agreement to repay the money within a specified time.

(3) If the loan is obtained from a person not normally engaged in the business of making a loan, there is borrower's acknowledgment of obligation to repay (with or without interest), or the borrower expresses intent to repay the loan when funds become available in the future, or there is a timetable and plan for repayment.

*w.* Payments made from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in the In re Agent Orange product liability litigation, M.D.L. No. 381 (E.D.N.Y.).

*x.* The income of a person ineligible due to receipt of state-funded foster care, IV-E foster care, or subsidized adoption assistance.

*y.* Payments for major disaster and emergency assistance provided under the Disaster Relief Act of 1974 as amended by Public Law 100-707, the Disaster Relief and Emergency Assistance Amendments of 1988.

*z.* Payments made to certain United States citizens of Japanese ancestry and resident Japanese aliens under Section 105 of Public Law 100-383, and payments made to certain eligible Aleuts under Section 206 of Public Law 100-383, entitled "Wartime Relocation of Civilians."

*aa.* Payments received from the Radiation Exposure Compensation Act.

*ab.* Deposits into an individual development account (IDA) when determining eligibility. The amount of the deposit is exempt as income and shall not be used in the 185 percent eligibility test. The deposit shall be deducted from nonexempt earned and unearned income that the client receives in the same budget month in which the deposit is made. To allow a deduction, verification of the deposit shall be provided by the end of the report month or the extended filing date, whichever is later. The client shall be allowed a deduction only when the deposit is made from the client's money. The earned income deductions at paragraphs 75.57(2)*"a," "b,"* and *"c"* shall be applied to nonexempt earnings from employment or net profit from self-employment that remains after deducting the amount deposited into the account. Allowable deductions shall be applied to any nonexempt unearned income that remains after deducting the amount of the deposit. If the client has both nonexempt earned and unearned income, the amount deposited into the IDA account shall first be deducted from the client's nonexempt unearned income. Deposits shall not be deducted from earned or unearned income that is exempt.

(2) To qualify for this disregard, the person shall not have earned more than $1,200 in the 12 calendar months prior to the month in which the new job begins, the income must be reported timely in accordance with rule 441—76.10(249A), and the new job must have started after the date the application is filed. For purposes of this policy, the $1,200 earnings limit applies to the gross amount of income without any allowance for exemptions, disregards, work deductions, diversions, or the costs of doing business used in determining net profit from any income test in rule 441—75.57(249A).

(3) If another new job or self-employment enterprise starts while a WTP is in progress, the exemption shall also be applied to earnings from the new source that are received during the original 4-month period, provided that the earnings were less than $1,200 in the 12-month period before the month the other new job or self-employment enterprise begins.

(4) An individual is allowed the 4-month exemption period only once in a 12-month period. An additional 4-month exemption shall not be granted until the month after the previous 12-month period has expired.

(5) If a person whose income is considered enters the household, the new job must start after the date the person enters the home or after the person is reported in the home, whichever is later, in order for that person to qualify for the exemption.

(6) When a person living in the home whose income is not considered subsequently becomes an assistance unit member whose income is considered, the new job must start after the date of the change that causes the person's income to be considered in order for that person to qualify for the exemption.

(7) A person who begins new employment or self-employment that is intermittent in nature may qualify for the WTP. "Intermittent" includes, but is not limited to, working for a temporary agency that places the person in different job assignments on an as-needed or on-call basis, or self-employment from providing child care for one or more families. However, a person is not considered as starting new employment or self-employment each time intermittent employment restarts or changes such as when the same temporary agency places the person in a new assignment or a child care provider acquires another child care client.

*ag.* Payments from property sold under an installment contract as specified in paragraphs 75.56(4)*"b"* and 75.57(1)*"d."*

**75.57(8)** *Treatment of income in excluded parent cases, stepparent cases, and underage parent cases.*

*a.* Treatment of income in excluded parent cases. A parent who is living in the home with the eligible children but whose needs are excluded from the eligible group is eligible for the 20 percent earned income deduction, child care expenses for children in the eligible group, the 50 percent work incentive deduction described at paragraphs 75.57(2)*"a," "b,"* and *"c,"* and diversions described at subrule 75.57(4), and shall be permitted to retain that part of the parent's income to meet the parent's needs as determined by the difference between the needs of the eligible group with the parent included and the needs of the eligible group with the parent excluded except as described at subrule 75.57(10). All remaining nonexempt income of the parent shall be applied against the needs of the eligible group.

*b.* Treatment of income in stepparent cases. The income of a stepparent who is not included in the eligible group, but is living with the parent in the home of the eligible child(ren), shall be given the same consideration and treatment as that of a natural parent subject to the limitations of subparagraphs (1) through (10) below.

(1) The stepparent's monthly gross nonexempt earned income, earned as an employee or monthly net profit from self-employment, shall receive a 20 percent earned income deduction.

(2) The stepparent's monthly nonexempt earned income remaining after the 20 percent earned income deduction shall be allowed child care expenses for the stepparent's ineligible dependents in the home, subject to the restrictions described at subparagraphs 75.57(2)*"b"*(1) through (5).

(3) Any amounts actually paid by the stepparent to individuals not living in the home, who are claimed or could be claimed by the stepparent as dependents for federal income tax purposes, shall be deducted from nonexempt monthly earned and unearned income of the stepparent.

(4) The stepparent shall also be allowed a deduction from nonexempt monthly earned and unearned income for alimony and child support payments made to individuals not living in the home with the stepparent.

(5) Except as described at subrule 75.57(10), the nonexempt monthly earned and unearned income of the stepparent remaining after application of the deductions at subparagraphs 75.57(8)*"b"*(1) through (4) above shall be used to meet the needs of the stepparent and the stepparent's dependents living in the home, when the dependents' needs are not included in the eligible group and the stepparent claims or could claim the dependents for federal income tax purposes. These needs shall be determined in accordance with the schedule of needs for a family group of the same composition in accordance with subrule 75.58(2).

(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 at subparagraphs 75.57(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 subparagraphs 75.57(9)*"a"*(2) and (3).

(7) The deductions described in subparagraphs (1) through (6) shall first be subtracted from earned income in the same order as they appear above.

When the stepparent has both nonexempt earned and unearned income and earnings are less than the allowable deductions, then any remaining portion of the deductions in subparagraphs (3) through (5) shall be subtracted from unearned income. Any remaining income shall be applied as unearned income to the needs of the eligible group.

If the stepparent has earned income remaining after allowable deductions, then any nonexempt unearned income shall be added to the earnings and the resulting total counted as unearned income to the needs of the eligible group.

(8) A nonexempt nonrecurring lump sum received by a stepparent shall be considered as income in the budget month and counted in computing eligibility. Any portion of the nonrecurring lump sum retained by the stepparent in the month following the month of receipt shall be considered a resource to the stepparent.

(9) When the income of the stepparent, not in the eligible group, is insufficient to meet the needs of the stepparent and the stepparent's dependent but ineligible children living in the home, the income of the parent may be diverted to meet the unmet needs of the children of the current marriage except as described at subrule 75.57(10).

(10) When the needs of the stepparent, living in the home, are not included in the eligible group, the eligible group and any dependent but ineligible children of the parent shall be considered as one unit, and the stepparent and the stepparent's dependents, other than the spouse, shall be considered a separate unit.

(11) Rescinded IAB 6/30/99, effective 9/1/99.

*c.* Treatment of income in underage parent cases. In the case of a dependent child whose unmarried parent is under the age of 18 and living in the same home as the unmarried, underage parent's own self-supporting parents, the income of each self-supporting parent shall be considered available to the eligible group after appropriate deductions unless the provisions of rule 441—75.59(249A) apply. The deductions to be applied are the same as are applied to the income of a stepparent pursuant to subparagraphs 75.57(8)*"b"*(1) through (7). Child care expenses at subparagraph 75.57(8)*"b"*(2) shall be allowed for the self-supporting parent's ineligible children. Nonrecurring lump sum income received by the self-supporting parent(s) shall be treated in accordance with subparagraph 75.57(8)*"b"*(8).

When the self-supporting spouse of a self-supporting parent is also living in the home, the income of that spouse shall be attributable to the self-supporting parent in the same manner as the income of a stepparent is determined pursuant to subparagraphs 75.57(8)*"b"*(1) through (7) unless the provisions of rule 441—75.59(249A) apply. Child care expenses at subparagraph 75.57(8)*"b"*(2) shall be allowed for the ineligible dependents of the self-supporting spouse who is a stepparent of the minor parent. Nonrecurring lump sum income received by the spouse of the self-supporting parent shall be treated in accordance with subparagraph 75.57(8)*"b"*(8). The self-supporting parent and any ineligible dependents of that person shall be considered as one unit. The self-supporting spouse and the spouse's ineligible dependents, other than the self-supporting parent, shall be considered a separate unit.

**75.57(9)** *Budgeting process.*

*a.* Initial eligibility.

(1) At the time of application all earned and unearned income received and anticipated to be received by the eligible group during the month the decision is made shall be considered to determine eligibility, except income which is exempt. When income is prorated in accordance with subparagraph 75.57(9)*"c"*(1) and paragraph 75.57(9)*"i,"* the prorated amount is counted as income received in the month of decision. Allowable work expenses during the month of decision shall be deducted from earned income, except when determining eligibility under the 185 percent test defined at rule 441—75.57(249A). The determination of eligibility in the month of decision is a three-step process as described at rule 441—75.57(249A).

(2) When countable gross nonexempt earned and unearned income in the month of decision, or in any other month after assistance is approved, exceeds 185 percent of the schedule of living costs (Test 1), as identified at subrule 75.58(2) for the eligible group, eligibility does not exist under any coverage group for which these income tests apply. Countable gross income means nonexempt gross income, as defined at rule 441—75.57(249A), 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 schedule of living costs for the eligible group, initial eligibility under the schedule of living costs (Test 2) shall then be determined. Initial eligibility under the schedule of living costs is determined without application of the 50 percent earned income disregard as specified at paragraph 75.57(2)*"c."* All other appropriate exemptions, deductions and diversions are applied. Countable income is then compared to the schedule of basic needs (Test 3) for the eligible group. When countable net earned and unearned income in the month of decision equals or exceeds the schedule of basic needs for the eligible group, eligibility does not exist under any coverage group for which these income tests apply.

(3) When the countable net income in the month of decision is less than the schedule of living costs (Test 2) for the eligible group, the 50 percent earned income disregards at paragraph 75.57(2)*"c"* shall be applied when there is eligibility for these disregards. When countable net earned and unearned income in the month of decision, after application of the earned income disregards at paragraph 75.57(2)*"c"* and all other appropriate exemptions, deductions, and diversions, equals or exceeds the schedule of basic needs (Test 3) for the eligible group, eligibility does not exist under any coverage group for which these tests apply.

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.

(4) The family composition for any month before the month of decision shall be considered individually, based upon the family composition during each month.

(5) Eligibility shall be calculated prospectively for the initial two months with one exception: Income for the first and second months of eligibility shall be considered retrospectively when the applicant was a recipient for the two immediately preceding eligibility months.

(6) Income considered for prospective budgeting shall be the best estimate, based on knowledge of current and past circumstances and reasonable expectations of future circumstances.

(7) Work expense for care, as defined at paragraph 75.27(2)*"b,"* shall be the allowable care expense expected to be billed or otherwise expected to become due during the budget month. The 20 percent earned income deduction for each wage earner, as defined at paragraph 75.57(2)*"a,"* and the 50 percent work incentive deduction, as defined at paragraph 75.57(2)*"c,"* shall be allowed.

*b.* Ongoing eligibility.

(1) After the initial two months, eligibility shall be based retrospectively on income and other circumstances in the budget month. However, when the income was considered prospectively in the initial application and is not expected to continue, it shall not be considered again.

(2) When a change in eligibility factors occurs, the local office shall prospectively compute eligibility based on the change, effective no later than the month following the month the change occurred. If eligibility continues, no action is taken. If ineligibility exists, assistance shall be canceled or suspended. Continuing eligibility under the 185 percent eligibility test (Test 1), defined at rule 441—75.57(249A), shall be computed prospectively and retrospectively.

(3) Income considered for retrospective budgeting shall be the actual income received in the budget month, except for the income described at subparagraph 75.57(9)*"c"*(1) and paragraph 75.57(9)*"i."* A payroll check will be considered received the date the employer distributes payroll checks to the employee.

(4) Work expense for care, as defined at paragraph 75.57(2)*"b,"* shall be the allowable care expense expected to be billed or which otherwise became due in the budget month. The 20 percent earned income deduction for each wage earner, as defined at paragraph 75.57(2)*"a,"* and the 50 percent work incentive disregard, as defined at paragraph 75.57(2)*"c,"* shall be allowed.

*c.* Lump sum income.

(1) Lump sum income other than nonrecurring. Recurring lump sum earned and unearned income, except for the income of the self-employed, shall be prorated over the number of months for which the income was received and applied to the eligibility determination for the same number of months. Income received by an individual employed under a contract shall be prorated over the period of the contract. Income received at periodic intervals or intermittently shall be prorated over the period covered by the income and applied to the eligibility determination for the same number of months, except periodic or intermittent income from self-employment shall be treated as described at paragraph 75.57(9)*"i."* When the lump sum income is earned income, appropriate disregards, deductions and diversions shall be applied to the monthly prorated income. Income is prorated when a lump sum is received before the month of decision and is anticipated to recur; or a lump sum is received during the month of decision or any time during receipt of assistance.

(2) Nonrecurring lump sum income. Moneys received as a nonrecurring lump sum, except as specified in subrules 75.56(4) and 75.56(7) and at paragraphs 75.57(8)*"b"* and *"c,"* shall be treated in accordance with this rule. Nonrecurring lump sum income shall be considered as income in the budget month and counted in computing eligibility in the benefit month, unless the income is exempt. When countable income exclusive of the family investment program grant but including countable lump sum income exceeds the needs of the eligible group under their current coverage group, the countable lump sum income shall be prorated. The number of full months for which a monthly amount of the lump sum shall be counted as income in the eligibility determination is derived by dividing the income by the schedule of living costs, as identified at subrule 75.58(2), for the eligible group. This period of time is referred to as the period of proration. Any income remaining after this calculation shall be applied as income to the first month following the period of ineligibility and disregarded as income thereafter.

The period of proration shall be shortened when the schedule of living costs as defined at subrule 75.58(2) increases.

The period of proration shall be shortened by the amount which is no longer available to the eligible group due to a loss, a theft or because the person controlling the lump sum no longer resides with the eligible group and the lump sum is no longer available to the eligible group.

The period of proration shall also be shortened when there is an expenditure of the lump sum made for the following circumstances unless there was insurance available to meet the expense: Payments made on medical services for the former eligible group or their dependents for services listed in 441—Chapters 78, 81, 82, and 85 at the time the expense is reported to the department; the cost of necessary repairs to maintain habitability of the homestead requiring the spending of over $25 per incident; cost of replacement of exempt resources as defined in subrule 75.56(1) due to fire, tornado, or other natural disaster; or funeral and burial expenses. The expenditure of these funds shall be verified. A dependent is an individual who is claimed or could be claimed by another individual as a dependent for federal income tax purposes.

[Filed emergency 6/11/93—published 7/7/93, effective 7/1/93]
[Filed emergency 6/11/93 after Notice 4/28/93—published 7/7/93, effective 7/1/93]
[Filed 7/14/93, Notice 5/12/93—published 8/4/93, effective 10/1/93]
[Filed 8/12/93, Notice 7/7/93—published 9/1/93, effective 11/1/93]
[Filed emergency 9/17/93—published 10/13/93, effective 10/1/93]
[Filed 9/17/93, Notice 7/21/93—published 10/13/93, effective 12/1/93]
[Filed emergency 11/12/93—published 12/8/93, effective 1/1/94]
[Filed emergency 12/16/93—published 1/5/94, effective 1/1/94]
[Filed without Notice 12/16/93—published 1/5/94, effective 2/9/94]
[Filed 12/16/93, Notices 10/13/93, 10/27/93—published 1/5/94, effective 3/1/94]
[Filed 2/10/94, Notices 12/8/93, 1/5/94◊—published 3/2/94, effective 5/1/94]
[Filed 3/10/94, Notice 2/2/94—published 3/30/94, effective 6/1/94]
[Filed 4/14/94, Notice 2/16/94—published 5/11/94, effective 7/1/94]
[Filed 5/11/94, Notice 3/16/94—published 6/8/94, effective 8/1/94]
[Filed 6/16/94, Notice 4/27/94—published 7/6/94, effective 9/1/94]
[Filed 9/15/94, Notice 8/3/94—published 10/12/94, effective 11/16/94]
[Filed 10/12/94, Notice 8/17/94—published 11/9/94, effective 1/1/95]
[Filed emergency 12/15/94—published 1/4/95, effective 1/1/95]
[Filed 12/15/94, Notices 10/26/94, 11/9/94—published 1/4/95, effective 3/1/95]
[Filed 2/16/95, Notices 11/23/94, 12/21/94, 1/4/95—published 3/15/95, effective 5/1/95]
[Filed 4/13/95, Notices 2/15/95, 3/1/95—published 5/10/95, effective 7/1/95]
[Filed emergency 9/25/95—published 10/11/95, effective 10/1/95]
[Filed 11/16/95, Notices 9/27/95, 10/11/95—published 12/6/95, effective 2/1/96]
[Filed emergency 12/12/95—published 1/3/96, effective 1/1/96]
[Filed 12/12/95, Notice 10/25/95—published 1/3/96, effective 3/1/96]
[Filed 2/14/96, Notice 1/3/96—published 3/13/96, effective 5/1/96]
[Filed 4/10/96, Notice 2/14/96—published 5/8/96, effective 7/1/96]
[Filed emergency 9/19/96—published 10/9/96, effective 9/19/96]
[Filed 10/9/96, Notice 8/28/96—published 11/6/96, effective 1/1/97]
[Filed emergency 12/12/96—published 1/1/97, effective 1/1/97]◊
[Filed 12/12/96, Notices 9/11/96, 10/9/96—published 1/1/97, effective 3/1/97]
[Filed 2/12/97, Notice 1/1/97—published 3/12/97, effective 5/1/97]
[Filed 3/12/97, Notice 1/1/97—published 4/9/97, effective 6/1/97]
[Filed 4/11/97, Notice 2/26/97—published 5/7/97, effective 7/1/97]
[Filed emergency 9/16/97—published 10/8/97, effective 10/1/97]
[Filed 9/16/97, Notice 7/16/97—published 10/8/97, effective 12/1/97]
[Filed emergency 12/10/97—published 12/31/97, effective 1/1/98]
[Filed emergency 12/10/97 after Notices 10/22/97, 11/5/97—published 12/31/97, effective 1/1/98]
[Filed emergency 1/14/98 after Notice 11/19/97—published 2/11/98, effective 2/1/98]
[Filed 2/11/98, Notice 12/31/97—published 3/11/98, effective 5/1/98]◊
[Filed 3/11/98, Notice 1/14/98—published 4/8/98, effective 6/1/98]
[Filed 4/8/98, Notice 2/11/98—published 5/6/98, effective 7/1/98]
[Filed emergency 6/10/98—published 7/1/98, effective 7/1/98]
[Filed emergency 6/25/98—published 7/15/98, effective 7/1/98]
[Filed 7/15/98, Notices 6/3/98—published 8/12/98, effective 10/1/98]
[Filed 8/12/98, Notices 6/17/98, 7/1/98—published 9/9/98, effective 11/1/98]
[Filed 9/15/98, Notice 7/15/98—published 10/7/98, effective 12/1/98]

◊Two or more ARCs

[Filed 11/10/98, Notice 9/23/98—published 12/2/98, effective 2/1/99]
[Filed emergency 12/9/98—published 12/30/98, effective 1/1/99]
[Filed 2/10/99, Notice 12/30/98—published 3/10/99, effective 4/15/99]
[Filed 3/10/99, Notice 11/18/98—published 4/7/99, effective 6/1/99]
[Filed 3/10/99, Notice 1/27/99—published 4/7/99, effective 7/1/99]
[Filed 4/15/99, Notice 2/10/99—published 5/5/99, effective 7/1/99]
[Filed 5/14/99, Notice 4/7/99—published 6/2/99, effective 8/1/99]
[Filed emergency 6/10/99—published 6/30/99, effective 7/1/99]
[Filed 6/10/99, Notice 4/21/99—published 6/30/99, effective 9/1/99]

**76.1(6)** *Right to withdraw the application.* After an application has been filed, the applicant may withdraw the application at any time prior to the eligibility determination. The applicant may request that the application be withdrawn entirely or may, prior to the date the application is processed, request withdrawal for any month covered by the application process except as provided in the medically needy program in accordance with the provisions of 441—subrule 75.1(35). Requests for voluntary withdrawal of the application shall be documented in the case record and a notice of decision, Form PA-3102-0 or PA-3159-0, shall be sent to the applicant confirming the request.

**76.1(7)** *Responsible persons and authorized representatives.*

*a.* *Responsible person.* If the applicant or recipient is unable to act on the applicant's or recipient's behalf because the applicant or recipient is incompetent, physically incapacitated, or deceased, a responsible person may act responsibly for the applicant or recipient. The responsible person shall be a family member, friend or other person who has knowledge of the applicant's or recipient's financial affairs and circumstances and a personal interest in the applicant's or recipient's welfare or a legal representative such as a conservator, guardian, executor or someone with power of attorney. The responsible person shall assume the applicant's or recipient's position and responsibilities during the application process or for ongoing eligibility. The responsible person may designate an authorized representative as provided for in paragraph 76.1(7)*"b"* to represent the incompetent, physically incapacitated, or deceased applicant's or recipient's position and responsibilities during the application process or for ongoing eligibility. This authorization does not relieve the responsible person from assuming the incompetent, physically incapacitated, or deceased applicant's or recipient's position and responsibilities during the application process or for ongoing eligibility.

(1) When there is no person as described above to act on the incompetent, physically incapacitated, or deceased applicant's or recipient's behalf, any individual or organization shall be allowed to act as the responsible person if the individual or organization conducts a diligent search and completes Form 470-3356, Inability to Find a Responsible Person, attesting to the inability to find a responsible person to act on behalf of the incompetent, physically incapacitated, or deceased applicant or recipient.

(2) The department may require verification of incompetence or death and the person's relationship to the applicant or recipient or the legal representative status.

(3) Copies of all department correspondence that would normally be provided to the applicant or recipient shall be provided to the responsible person and the representative if one has been authorized by the responsible person.

*b.* *Authorized representative.* A competent applicant or recipient or a responsible person as described in paragraph 76.1(7)*"a"* may authorize any individual or organization to represent the applicant or recipient in the application process or for ongoing eligibility.

(1) The authorization must be in writing, and signed and dated by the applicant or recipient or a responsible person before the department shall recognize the authorized representative.

(2) If the authorization indicates the time period or dates of medical services it is to cover, this stated period or dates of medical services shall be honored and may include subsequent applications, if necessary, that relate to the time period or dates of medical services indicated on the authorization. If the authorization does not indicate the time period or dates of medical services it is to cover, the authorization shall be valid for any applications filed within 120 days from the date the authorization was signed and all subsequent actions pertaining to the applications filed within the 120-day period.

(3) Anytime an applicant or recipient or a responsible person notifies the department in writing that the applicant or recipient or a responsible person no longer wants an authorized representative to act on the applicant's or recipient's behalf, the department shall no longer recognize that person or organization as the applicant's or recipient's representative.

(4) An authorized representative does not relieve a competent applicant or recipient or a responsible person as defined in 76.1(7)*"a"* of the primary responsibility to cooperate with the application process or ongoing eligibility, which may include providing information or verification, attending a required face-to-face interview or signing documents on which the authorized representative's signature would be inadequate.

(5) Copies of all departmental correspondence shall be provided to the client and the representative if one has been authorized by the applicant or recipient.

**441—76.2(249A) Information and verification procedure.** The decision with respect to eligibility shall be based primarily on information furnished by the applicant or recipient. The county office shall notify the applicant or recipient in writing of additional information or verification that is required to establish eligibility. This notice shall be provided to the applicant or recipient personally, or by mail or facsimile. Applicants for whom eligibility is determined in whole or in part by the Social Security Administration (SSA) shall make application to the SSA within five working days of referral by the department. Failure of the applicant or recipient to supply the information or verification or refusal by the applicant or recipient to authorize the county office to secure the information or verification from other sources shall serve as a basis for rejection of an application or cancellation of assistance. Five working days shall be allowed for the applicant or recipient to supply the information or verification requested by the county office. The county office may extend the deadline for a reasonable period of time when the applicant or recipient is making every effort but is unable to secure the required information or verification from a third party.

**76.2(1)** *Interviews.*

*a.* In processing applications for Medicaid for children, a face-to-face interview shall not be required. In processing applications for Medicaid for adults, a face-to-face interview shall be held with the applicant. The face-to-face interview may be replaced with a telephone interview when:

(1) The health of the applicant is such that the applicant cannot reasonably be expected to attend the face-to-face interview in the county office.

(2) The applicant has moved out of the state and the distance is such that the applicant cannot reasonably be expected to commute to attend the face-to-face interview.

*b.* For SSI-related Medicaid for adults, an interview may be required at the time of review.

*c.* The county office shall notify the applicant in writing of the date, time and method of the initial interview. This notice shall be provided to the applicant personally or by mail or facsimile. Rescheduled interviews at the request of the applicant or authorized representative may be agreed upon verbally and a written confirmation is not required.

*d.* Failure of the applicant or recipient to attend an interview shall serve as a basis for rejection of an application or cancellation of assistance for adults. Failure of the applicant or recipient to attend an interview shall not serve as a basis for rejection of an application or cancellation of assistance for children.

These rules are intended to implement Iowa Code sections 249.3, 249.4, 249A.4 and 249A.5.

[Filed 3/11/70]
[Filed 6/25/76, Notice 5/17/76—published 7/12/76, effective 8/16/76]
[Filed 11/5/82, Notice 8/18/82—published 11/24/82, effective 1/1/83]
[Filed emergency 1/13/84—published 2/1/84, effective 2/8/84]
[Filed 5/31/84, Notice 4/11/84—published 6/20/84, effective 8/1/84]
[Filed 8/31/84, Notice 6/20/84—published 9/26/84, effective 11/1/84]
[Filed 9/28/84, Notice 8/15/84—published 10/24/84, effective 12/1/84]
[Filed 10/1/85, Notice 8/14/85—published 10/23/85, effective 12/1/85]
[Filed 2/21/86, Notice 1/1/86—published 3/12/86, effective 5/1/86]
[Filed 3/21/86, Notice 1/29/86—published 4/9/86, effective 6/1/86]
[Filed 4/29/86, Notice 3/12/86—published 5/21/86, effective 8/1/86]
[Filed emergency 1/15/87—published 2/11/87, effective 1/15/87]
[Filed 8/28/87, Notice 6/17/87—published 9/23/87, effective 11/1/87]
[Filed 9/24/87, Notice 8/12/87—published 10/21/87, effective 12/1/87]
[Filed 3/17/88, Notice 1/13/88—published 4/6/88, effective 6/1/88]
[Filed 6/9/88, Notice 4/20/88—published 6/29/88, effective 9/1/88]
[Filed 2/16/89, Notice 12/28/88—published 3/8/89, effective 5/1/89]
[Filed 4/14/89, Notice 2/22/89—published 5/3/89, effective 7/1/89]
[Filed 7/14/89, Notice 5/31/89—published 8/9/89, effective 10/1/89]
[Filed 10/10/89, Notice 8/23/89—published 11/1/89, effective 1/1/90]
[Filed 11/16/89, Notice 9/20/89—published 12/13/89, effective 2/1/90]
[Filed 1/17/90, Notice 8/23/90—published 2/7/90, effective 4/1/90]*
[Filed 6/14/90, Notice 5/2/90—published 7/11/90, effective 9/1/90]
[Filed 11/14/90, Notice 10/3/90—published 12/12/90, effective 2/1/91]
[Filed 12/13/90, Notice 10/31/90—published 1/9/91, effective 3/1/91]
[Filed 4/11/91, Notice 2/20/91—published 5/1/91, effective 7/1/91]
[Filed 7/10/91, Notice 5/29/91—published 8/7/91, effective 10/1/91]
[Filed without Notice 9/18/91—published 10/16/91, effective 11/21/91]
[Filed emergency 10/10/91—published 10/30/91, effective 11/21/91]
[Filed 10/10/91, Notice 8/21/91—published 10/30/91, effective 1/1/92]
[Filed 1/16/92, Notice 9/18/91—published 2/5/92, effective 4/1/92]
[Filed 1/16/92, Notice 11/27/91—published 2/5/92, effective 4/1/92]
[Filed 1/29/92, Notice 10/16/91—published 2/19/92, effective 3/25/92]
[Filed 2/13/92, Notices 12/25/91, 1/8/92—published 3/4/92, effective 5/1/92]
[Filed emergency 4/16/92 after Notice 2/19/92—published 5/13/92, effective 5/1/92]
[Filed emergency 6/11/92 after Notice 4/15/92—published 7/8/92, effective 7/1/92]
[Filed 6/11/92, Notice 4/15/92—published 7/8/92, effective 9/1/92]
[Filed emergency 7/17/92—published 8/5/92, effective 8/1/92]
[Filed 9/11/92, Notices 7/22/92, 8/5/92—published 9/30/92, effective 12/1/92]
[Filed 7/14/93, Notice 5/12/93—published 8/4/93, effective 10/1/93]
[Filed emergency 9/17/93—published 10/13/93, effective 10/1/93]
[Filed 11/12/93, Notice 9/29/93—published 12/8/93, effective 2/1/94]
[Filed 12/16/93, Notice 10/13/93—published 1/5/94, effective 3/1/94]
[Filed 4/14/94, Notice 2/16/94—published 5/11/94, effective 7/1/94]

*Effective date of 4/1/90 delayed 70 days by the Administrative Rules Review Committee at its March 12, 1990, meeting; delay lifted by this Committee, effective May 11, 1990.

[Filed 10/12/94, Notices 8/17/94—published 11/9/94, effective 1/1/95]
[Filed 2/16/95, Notice 11/23/94—published 3/15/95, effective 5/1/95]
[Filed 8/10/95, Notice 6/21/95—published 8/30/95, effective 11/1/95]
[Filed 12/12/96, Notice 9/11/96—published 1/1/97, effective 3/1/97]
[Filed emergency1/15/97 after Notice 12/4/96—published 2/12/97, effective 2/1/97]
[Filed emergency 3/12/97—published 4/9/97, effective 4/1/97]
[Filed 9/16/97, Notice 7/16/97—published 10/8/97, effective 12/1/97]
[Filed 8/12/98, Notice 6/17/98—published 9/9/98, effective 11/1/98]
[Filed emergency 12/23/98 after Notice 11/4/98—published 1/13/99, effective 1/1/99]
[Filed emergency 6/10/99—published 6/30/99, effective 7/1/99]

Full therapeutic dose levels and maintenance dose levels for the following drugs are those listed in the American Hospital Formulary Service Drug Information, United States Pharmacopeia-Drug Information, American Medical Association Drug Evaluations, and the peer-reviewed medical literature.

Prior authorization is required for prescriptions for all single-source histamine H2-receptor antagonists at all dose levels. Single-source is defined as the brand-name drug or the innovator of a multiple-source drug. Payment for the single-source histamine H2-receptor antagonist will be authorized only for cases in which there is documentation of a previous trial and therapy failure with at least one multiple-source histamine H2-receptor antagonist.

Prior authorization is required for multiple-source histamine H2-receptor antagonists prescribed at full therapeutic dose levels for longer than a 90-day period or more frequently than one 90-day course of therapy per 12-month period per recipient. Payment for single- or multiple-source histamine H2-receptor antagonists at full therapeutic dose levels beyond the 90-day limit or more frequently than one 90-day course of therapy per patient per 12-month period will be authorized in cases where there is a diagnosis of:

1. Hypersecretory conditions (Zollinger-Ellison syndrome, systemic mastocytosis, multiple endocrine adenomas).
2. Symptomatic gastroesophageal reflux.
3. Symptomatic relapses of duodenal or gastric ulcers not responding to maintenance therapy and with documentation of either failure of Helicobacter pylori treatment or a negative Helicobacter pylori test result.
4. Barrett's esophagus.
5. Erosive esophagitis.

Other conditions will be considered on an individual patient basis with submitted documentation of medical necessity.

Prior authorization is required for proton pump inhibitor usage longer than 60 days or more frequently than one 60-day course per 12-month period. Payment for proton pump inhibitors beyond the 60-day limit or more frequently than one 60-day course per recipient per 12-month period shall be authorized upon request for those cases in which there is a diagnosis of:

1. Hypersecretory conditions (Zollinger-Ellison syndrome, systemic mastocytosis, multiple endocrine adenomas).
2. Barrett's esophagus.
3. Symptomatic gastroesophageal reflux after documentation of previous trials and therapy failure with at least one histamine H2-receptor antagonist at full therapeutic doses as defined by the histamine H2-receptor antagonist prior authorization guidelines.
4. Recurrent peptic ulcer disease after documentation of previous trials and therapy failure with at least one histamine H2-receptor antagonist at full therapeutic doses and with documentation of either failure of Helicobacter pylori treatment or a negative Helicobacter pylori test result.

Proton pump inhibitors prescribed concurrently with histamine H2-receptor antagonists shall be considered duplication of therapy. Payment for duplication of therapy will be considered on an individual basis after review of submitted documentation of medical necessity.

Prior authorization is not required for a cumulative 60 days of therapy with a proton pump inhibitor per 12-month period per recipient. The 12-month period is patient specific and begins 12 months prior to the requested date of prior authorization.

The medical condition of patients receiving continuous long-term treatment with proton pump inhibitors shall be reviewed yearly to determine the need for ongoing treatment.

Prior authorization is required for sucralfate at full therapeutic dose levels for longer than a 90-day period or more frequently than one 90-day course of therapy per patient per 12-month period. Payment for sucralfate at full therapeutic dose levels beyond the 90-day limit or more frequently than a 90-day course per patient per 12-month period will be authorized in cases where there is a diagnosis of:

1. Hypersecretory conditions (Zollinger-Ellison syndrome, systemic mastocytosis, multiple endocrine adenomas).
2. Symptomatic gastroesophageal reflux.
3. Symptomatic relapses of duodenal or gastric ulcers not responding to maintenance therapy and with documentation of either failure of Helicobacter pylori treatment or a negative Helicobacter pylori test result.
4. Barrett's esophagus.
5. Erosive esophagitis.

Other conditions will be considered on an individual basis with submitted documentation.

Concurrent sucralfate therapy prescribed with histamine H2-receptor antagonists or proton pump inhibitors beyond a 30-day period is considered duplication of therapy. Concurrent sucralfate therapy prescribed with misoprostol is also considered duplication of therapy. Payment for duplication of therapy will be considered on an individual patient basis after review of submitted documentation of medical necessity.

Prior authorization is not required for misoprostol when prescribed concurrently with a nonsteroidal anti-inflammatory drug. Prior authorization is required for any other therapy with misoprostol beyond 90 days. Justification for other therapy will be considered on an individual patient basis. Misoprostol prescribed concurrently with histamine H2-receptor antagonists, sucralfate, or proton pump inhibitors will be considered duplication of therapy. Payment for duplication of therapy will be considered on an individual patient basis after review of submitted documentation of medical necessity. (Cross-reference 78.28(1)*"d"*(1))

Prior authorization is required for single-source nonsteroidal anti-inflammatory drugs. Requests must document previous trials and therapy failure with at least two multiple-source nonsteroidal anti-inflammatory drugs. Prior authorization for chronic conditions will be issued for a 12-month period. Once a prior authorization has been issued, the single-source nonsteroidal anti-inflammatory drug being prescribed may be changed to another single-source product without a new request within the approved time period of 12 months. Patients who have been established on proven therapy with a single-source product prior to October 1, 1992, will not require a prior authorization.

Prior authorization is not required for prescriptions for multiple-source nonsteroidal anti-inflammatory drugs. (Cross-reference 78.28(1)*"d"*(2))

Prior authorization is required for single-source benzodiazepines. Requests must document a previous trial and therapy failure with one multiple-source product. Prior authorization will be approved for 12 months for documented:

1. Generalized anxiety disorder.
2. Panic attack with or without agoraphobia.
3. Seizure.
4. Nonprogressive motor disorder.
5. Bipolar depression.
6. Dystonia.

Prior authorization requests will be approved for a three-month period for all other diagnoses related to the use of benzodiazepines. Justification will be considered on an individual patient basis. Patients who have been established on proven therapy with a single-source product prior to October 1, 1992, will not require a prior authorization. (Cross-reference 78.28(1)*"d"*(3))

Prior authorization is required for therapy with growth hormones. All of the following criteria must be met for approval for prescribing of growth hormones:

1. Standard deviation of 2.0 or more below mean height for chronological age.
2. No intracranial lesion or tumor diagnosed by MRI.
3. Growth rate below five centimeters per year.
4. Failure of any two stimuli tests to raise the serum growth hormone level above seven nanograms per milliliter.
5. Bone age 14 to 15 years or less in females and 15 to 16 years or less in males.
6. Epiphyses open.

Prior authorization will be granted for 12-month periods per recipient as needed. (Cross-reference 78.28(1)*"d"*(4))

Prior authorization is required for all prescription topical acne products for the treatment of mild to moderate acne vulgaris. An initial treatment failure of an over-the-counter benzoyl peroxide product, which is covered by the program, is required prior to the initiation of a prescription product, or evidence must be provided that use of these agents would be medically contraindicated. If the patient presents with a preponderance of comedonal acne, tretinoin products may be utilized as first line agents without prior authorization. (Cross-reference 78.28(1)*"d"*(5))

Prior authorization is required for all tretinoin prescription products for those patients over the age of 25 years. Alternatives such as topical benzoyl peroxide (OTC), and topical erythromycin, clindamycin, or oral tetracycline must first be tried (unless evidence is provided that use of these agents would be medically contraindicated) for the following conditions: endocrinopathy, mild to moderate acne (noninflammatory and inflammatory), and drug-induced acne. Prior authorization will not be required for those patients presenting with a preponderance of comedonal acne. Upon treatment failure with the above-mentioned products or if medically contraindicated, tretinoin products will be approved for three months. If tretinoin therapy is effective after the three-month period, approval will be granted for a one-year period. Skin cancer, lamellar ichthyosis, and Darier's Disease diagnoses will receive automatic approval for lifetime use of tretinoin products. (Cross-reference 78.28(1)*"d"*(6))

Prior authorization is required for single-source antihistamines including single active ingredient and combination products. Prior authorization is not required for multiple-source antihistamines. Single source is defined as the brand-name drug or the innovator of a multiple-source drug. Patients 21 years of age and older must have received two unsuccessful trials with other covered multiple-source antihistamines unless evidence is provided that the use of these agents would be medically contraindicated, prior to the utilization of single-source antihistamines. Patients 20 years of age and younger must have one unsuccessful trial with another covered multiple-source antihistamine unless evidence is provided that the use of these agents would be medically contraindicated, prior to the utilization of single-source antihistamines. (Cross-reference 78.28(1)*"d"*(7))

Prior authorization is required for all dipyridamole prescriptions outside the hospital setting. Dipyridamole will only be approved if aspirin is medically contraindicated in a patient. (Cross-reference 78.28(1)*"d"*(8))

Prior authorization is required for all cephalexin hydrochloride monohydrate prescriptions. Treatment failure with cephalexin monohydrate will be required prior to the initiation of a cephalexin hydrochloride monohydrate prescription. (Cross-reference 78.28(1)*"d"*(9))

Prior authorization is required for epoetin prescribed for outpatients for the treatment of anemia. Patients who meet the following criteria may receive prior authorization for the use of epoetin:

1. Hematocrit less than 30 percent.
2. Transferrin saturation greater than 20 percent (transferrin saturation is calculated by dividing serum iron by the total iron binding capacity), or ferritin levels greater than 100 mg/ml.
3. Laboratory values must be current to within three months of the prior authorization request.
4. For AZT-treated patients, endogenous serum erythropoetin level needs to be greater than 500 mU/ml.
5. Patient should not have a demonstrated gastrointestinal bleed.
6. Exceptions may be made if the patient does not meet criteria "2," but is on aggressive oral iron therapy (i.e., twice or three times per day dosing). The prior authorization for this exception would be for a limited time. (Cross-reference 78.28(1)*"d"*(10))

Prior authorization is required for filgrastim prescribed for outpatients whose conditions meet the following indications for use:

1. Decrease the incidence of infection due to severe neutropenia caused by myelosuppressive anticancer therapy. For this indication, the following criteria apply: Filgrastim therapy can continue until the postnadir, absolute neutrophil count is greater than 10,000 cells per cubic millimeter and routine CBC and platelet counts are required twice per week.
2. Decrease the incidence of infection due to severe neutropenia in AIDS patients on zidovudine. For this indication, the following criteria apply: Evidence of neutropenic infection exists or absolute neutrophil count is below 750 cells per cubic millimeter, filgrastim is adjusted to maintain absolute neutrophil count of approximately 1000 cells per cubic millimeter, and routine CBC and platelet counts are required once per week. (Cross-reference 78.28(1)*"d"*(11))

Prior authorization is required for drugs used for the treatment of male sexual dysfunction. For prior authorization to be granted, the patient must:

1. Be 21 years of age or older.
2. Have a confirmed diagnosis of impotence of organic origin or psychosexual dysfunction.
3. Not be taking any medications which are contraindicated for concurrent use with the drug prescribed for treatment of male sexual dysfunction.

Approval for these drugs, with the exception of yohimbine, will be limited to four doses in a 30-day period.

The 72-hour emergency supply rule found below and at paragraph 78.28(1)*"d"* does not apply for drugs used for the treatment of male sexual dysfunction. (Cross-reference 78.28(1)*"d"*(13))

Prior authorization is required for ergotamine derivatives used for migraine headache treatment for quantities exceeding 18 unit doses of tablets, injections, or sprays per 30 days. Payment for ergotamine derivatives for migraine headache treatment beyond this limit will be considered on an individual basis after review of submitted documentation. For consideration, the following information must be supplied:

1. The diagnosis requiring therapy.
2. Documentation of current prophylactic therapy or documentation of previous trials and therapy failures with two different prophylactic medications. (Cross-reference 78.28(1)*"d"*(14))

Prior authorization is required for narcotic agonist-antagonist nasal sprays for quantities exceeding 10 milliliters (approximately 60 doses) per 30 days. Payment for narcotic agonist-antagonist nasal spray beyond this limit will be considered on an individual basis after review of submitted documentation. For consideration, the diagnosis must be supplied. If the use is for the treatment of migraine headaches, documentation of current prophylactic therapy or documentation of previous trials and therapy failures with two different prophylactic medications must be provided. (Cross-reference 78.28(1)*"d"*(15))

Prior authorization is required for isotretinoin therapy. Payment will be approved for isotretinoin therapy under the following conditions:

1. There are documented trials and therapy failures of systemic antibiotic therapy and topical tretinoin therapy.
2. There is a confirmed negative serum pregnancy test, if appropriate.
3. There is a plan for contraception in place, if appropriate.

Initial authorization will be granted for up to 20 weeks. A minimum of two months without therapy is required to consider subsequent authorizations. (Cross-reference 78.28(1)*"d"*(16))

Prior authorization is required for oral antifungal therapy beyond a cumulative 90 days of therapy per 12-month period per patient. Payment for oral antifungal therapy beyond this limit will be authorized in cases where the patient has a diagnosis of an immunocompromised condition or a systemic fungal infection. Other conditions will be considered on an individual basis after review of submitted documentation. This prior authorization requirement does not apply to nystatin. (Cross-reference 78.28(1)*"d"*(17))

Prior authorization is required for nonparenteral vasopressin derivatives of posterior pituitary hormone products. Payment for nonparenteral vasopressin derivatives of posterior pituitary hormone products will be authorized for the following diagnoses:

1. Diabetes insipidus.
2. Hemophilia A.
3. Von Willebrand's disease.

Payment for nonparenteral vasopressin derivatives of posterior pituitary hormone products used in the treatment of primary nocturnal enuresis will be authorized for patients who are six years of age or older for periods of six months. Approvals will be granted for subsequent six-month periods only after a drug-free interval to assess the need for continued therapy. (Cross-reference 78.28(1)*"d"*(18))

Prior authorization is required for serotonin 5-HT1-receptor agonists for quantities exceeding 18 unit doses of tablets, syringes or sprays per 30 days. Payment for serotonin 5-HT1-receptor agonists beyond this limit will be considered on an individual basis after review of submitted documentation. For consideration, the following information must be supplied:

1. The diagnosis requiring therapy.
2. Documentation of current prophylactic therapy or documentation of previous trials and therapy failures with two different prophylactic medications. (Cross-reference 78.28(1)*"d"*(19))

For all drugs requiring prior authorization, in the event of an emergency situation when a prior authorization request cannot be submitted and a response received within 24 hours such as after regular working hours or on weekends, a 72-hour supply of the drug may be dispensed and reimbursement will be made.

Prior authorization is required for selected brand-name drugs as determined by the department for which there is available an "A" rated bioequivalent generic product as determined by the federal Food and Drug Administration. For prior authorization to be considered, evidence of a treatment failure with the bioequivalent generic drug must be provided. A copy of a completed Med Watch form, FDA Form 3500, as submitted to the federal Food and Drug Administration shall be considered as evidence of a treatment failure. Brand-name drugs selected by the department shall be obtained from those recommended by the Iowa Medicaid drug utilization review commission after consultation with the state associations representing physicians. The list of selected brand-name drugs shall be published in the Medicaid Prescribed Drug Manual and the Physician Manual.

*b.* Medical and sickroom supplies are payable when ordered by a legally qualified practitioner for a specific rather than incidental use. No payment will be approved for medical and sickroom supplies for a recipient receiving care in a Medicare-certified skilled nursing facility. When a recipient is receiving care in a nursing facility or residential care facility which is not a Medicare-certified skilled nursing facility, payment will be approved only for the following supplies when prescribed by a legally qualified practitioner:

(1) Colostomy and ileostomy appliances.
(2) Colostomy and ileostomy care dressings, liquid adhesive and adhesive tape.
(3) Disposable irrigation trays or sets.
(4) Disposable catheterization trays or sets.
(5) Indwelling Foley catheter.
(6) Disposable saline enemas.
(7) Diabetic supplies including needles and syringes, blood glucose test strips, and diabetic urine test supplies.

*c.* Prescription records are required for all drugs as specified in Iowa Code sections 155.33, 155.34 and 204.308. For the purposes of the medical assistance program, prescriptions for medical supplies are required and shall be subject to the same provisions.

*d.* When it is not therapeutically contraindicated, the legally qualified practitioner shall prescribe a quantity of medication sufficient for a 30-day supply. Maintenance drugs in the following therapeutic classifications for use in prolonged therapy may be prescribed in 90-day quantities:

(1) Oral contraceptives
(2) Cardiac drugs
(3) Hypotensive agents
(4) Vasodilating agents
(5) Anticonvulsants
(6) Diuretics
(7) Anticoagulants
(8) Thyroid and antithyroid agents
(9) Antidiabetic agents

3. Documentation of the medical necessity for an enteral pump, if the request includes an enteral pump. The information submitted must identify the medical reasons for not using a gravity feeding set.

(2) Examples of conditions that will not justify approval of enteral nutrition therapy are: weight-loss diets, wired-shut jaws, diabetic diets, milk or food allergies, the use of enteral products for convenience reasons when regular food in pureed form would meet the medical need of the recipient, or nutritional supplementation to boost calorie or protein intake in the absence of severe pathology of the body as stated in 78.10(3)*"b."*

Basis of payment for nutritional therapy supplies will be the least expensive method of delivery that is reasonable and medically necessary based on the documentation submitted.

*d.* The following drugs require prior approval. For all drugs requiring prior authorization, in the event of an emergency situation when a prior authorization request cannot be submitted and a response received within 24 hours such as after regular working hours or on weekends, a 72-hour supply of the drug may be dispensed and reimbursement will be made. Full therapeutic dose levels and maintenance dose levels for the following drugs are those listed in the American Hospital Formulary Service Drug Information, United States Pharmacopeia-Drug Information, American Medical Association Drug Evaluations, and the peer-reviewed medical literature. Prior authorization will be granted for 12-month periods per recipient as needed unless otherwise specified. (Cross-reference 78.1(2)*"a"*(3))

(1) Antiulcer drugs. Prior authorization is required for prescriptions for all single-source histamine H2-receptor antagonists at all dose levels. Single-source is defined as the brand-name drug or the innovator of a multiple-source drug. Payment for the single-source histamine H2-receptor antagonist will be authorized only for cases in which there is documentation of a previous trial and therapy failure with at least one multiple-source histamine H2-receptor antagonist.

Prior authorization is required for multiple-source histamine H2-receptor antagonists prescribed at full therapeutic dose levels for longer than a 90-day period or more frequently than one 90-day course of therapy per 12-month period per recipient. Payment for single- or multiple-source histamine H2-receptor antagonists at full therapeutic dose levels beyond the 90-day limit or more frequently than one 90-day course of therapy per patient per 12-month period will be authorized in cases where there is a diagnosis of:

1. Hypersecretory conditions (Zollinger-Ellison syndrome, systemic mastocytosis, multiple endocrine adenomas).
2. Symptomatic gastroesophageal reflux.
3. Symptomatic relapses of duodenal or gastric ulcers not responding to maintenance therapy and with documentation of either failure of Helicobacter pylori treatment or a negative Helicobacter pylori test result.
4. Barrett's esophagus.
5. Erosive esophagitis.

Other conditions will be considered on an individual patient basis with submitted documentation of medical necessity.

Prior authorization is required for proton pump inhibitor usage longer than 60 days or more frequently than one 60-day course per 12-month period. Payment for proton pump inhibitors beyond the 60-day limit or more frequently than one 60-day course per recipient per 12-month period shall be authorized upon request for those cases in which there is a diagnosis of:

1. Specific hypersecretory conditions (Zollinger-Ellison syndrome, systemic mastocytosis, multiple endocrine adenomas).
2. Barrett's esophagus.
3. Symptomatic gastroesophageal reflux after documentation of previous trials and therapy failure with at least one histamine H2-receptor antagonist at full therapeutic doses as defined by the histamine H2-receptor antagonist prior authorization guidelines.

4. Recurrent peptic ulcer disease after documentation of previous trials and therapy failure with at least one histamine H2-receptor antagonist at full therapeutic doses and with documentation of either failure of Helicobacter pylori treatment or a negative Helicobacter pylori test result.

Proton pump inhibitors prescribed concurrently with histamine H2-receptor antagonists shall be considered duplication of therapy. Payment for duplication of therapy will be considered on an individual basis after review of submitted documentation of medical necessity.

Prior authorization is not required for a cumulative 60 days of therapy with a proton pump inhibitor per 12-month period per recipient. The 12-month period is patient specific and begins 12 months prior to the requested date of prior authorization.

The medical condition of patients receiving continuous long-term treatment with proton pump inhibitors shall be reviewed yearly to determine the need for ongoing treatment.

Prior authorization is required for sucralfate at full therapeutic dose levels for longer than a 90-day period or more frequently than one 90-day course of therapy per patient per 12-month period. Payment for sucralfate at full therapeutic dose levels beyond the 90-day limit or more frequently than a 90-day course per patient per 12-month period will be authorized in cases where there is a diagnosis of:

1. Hypersecretory conditions (Zollinger-Ellison syndrome, systemic mastocytosis, multiple endocrine adenomas).
2. Symptomatic gastroesophageal reflux.
3. Symptomatic relapses of duodenal or gastric ulcers not responding to maintenance therapy and with documentation of either failure of Helicobacter pylori treatment or a negative Helicobacter pylori test result.
4. Barrett's esophagus.
5. Erosive esophagitis.

Other conditions will be considered on an individual basis with submitted documentation.

Concurrent sucralfate therapy prescribed with histamine H2-receptor antagonists or proton pump inhibitors beyond a 30-day period is considered duplication of therapy. Concurrent sucralfate therapy prescribed with misoprostol is also considered duplication of therapy. Payment for duplication of therapy will be considered on an individual patient basis after review of submitted documentation of medical necessity.

Prior authorization is not required for misoprostol when prescribed concurrently with a nonsteroidal anti-inflammatory drug. Prior authorization is required for any other therapy with misoprostol beyond 90 days. Justification for other therapy will be considered on an individual patient basis. Misoprostol prescribed concurrently with histamine H2-receptor antagonists, sucralfate, or proton pump inhibitors will be considered duplication of therapy. Payment for duplication of therapy will be considered on an individual patient basis after review of submitted documentation of medical necessity.

(2) Antiarthritis drugs. Prior authorization is required for single-source nonsteroidal anti-inflammatory drugs. Requests must document previous trials and therapy failure with at least two multiple-source nonsteroidal anti-inflammatory drugs. Prior authorization for chronic conditions will be issued for a 12-month period. Once a prior authorization has been issued the single-source nonsteroidal anti-inflammatory drug being prescribed may be changed to another single-source product without a new request within the approved time period of 12 months. Patients who have been established on proven therapy with a single-source product prior to October 1, 1992, will not require a prior authorization.

Prior authorization is not required for prescriptions for multiple-source nonsteroidal anti-inflammatory drugs.

(3) Prior authorization is required for single-source benzodiazepines. Requests must document a previous trial and therapy failure with one multiple-source product. Prior authorization will be approved for 12 months for documented:

1. Generalized anxiety disorder.
2. Panic attack with or without agoraphobia.
3. Seizure.
4. Nonprogressive motor disorder.
5. Bipolar depression.
6. Dystonia.

Prior authorization requests will be approved for a three-month period for all other diagnoses related to the use of benzodiazepines. Justification will be considered on an individual patient basis. Patients who have been established on proven therapy with a single-source product prior to October 1, 1992, will not require a prior authorization.

(4) Prior authorization is required for therapy with growth hormones. All of the following criteria must be met for approval for prescribing of growth hormones:

1. Standard deviation of 2.0 or more below mean height for chronological age.
2. No intracranial lesion or tumor diagnosed by MRI.
3. Growth rate below five centimeters per year.
4. Failure of any two stimuli tests to raise the serum growth hormone level above seven nanograms per milliliter.
5. Bone age 14 to 15 years or less in females and 15 to 16 years or less in males.
6. Epiphyses open.

Prior authorization will be granted for 12-month periods per recipient as needed. (Cross-reference 78.1(2)*"a"*(3))

(5) Prior authorization is required for all prescription topical acne products for the treatment of mild to moderate acne vulgaris. An initial treatment failure of an over-the-counter benzoyl peroxide product, which is covered by the program, is required prior to the initiation of a prescription product, or evidence must be provided that use of these agents would be medically contraindicated. If the patient presents with a preponderance of comedonal acne, tretinoin products may be utilized as first-line agents without prior authorization.

(6) Prior authorization is required for all tretinoin prescription products for those patients over the age of 25 years. Alternatives such as topical benzoyl peroxide (OTC), and topical erythromycin, clindamycin, or oral tetracycline must first be tried (unless evidence is provided that use of these agents would be medically contraindicated) for the following conditions: endocrinopathy, mild to moderate acne (noninflammatory and inflammatory), and drug-induced acne. Prior authorization will not be required for those patients presenting with a preponderance of comedonal acne. Upon treatment failure with the above-mentioned products or if medically contraindicated, tretinoin products will be approved for three months. If tretinoin therapy is effective after the three-month period, approval will be granted for a one-year period. Skin cancer, lamellar ichthyosis, and Darier's Disease diagnoses will receive automatic approval for lifetime use of tretinoin products.

(7) Prior authorization is required for single-source antihistamines including single active ingredient and combination products. Prior authorization is not required for multiple-source antihistamines. Single source is defined as the brand-name drug or the innovator of a multiple-source drug. Patients 21 years of age and older must have received two unsuccessful trials with other covered multiple-source antihistamines unless evidence is provided that the use of these agents would be medically contraindicated, prior to the utilization of single-source antihistamines. Patients 20 years of age and younger must have one unsuccessful trial with another covered multiple-source antihistamine unless evidence is provided that the use of these agents would be medically contraindicated, prior to the utilization of single-source antihistamines.

(8) Prior authorization is required for all dipyridamole prescriptions outside the hospital setting. Dipyridamole will only be approved if aspirin is medically contraindicated in a patient.

(9) Prior authorization is required for all cephalexin hydrochloride monohydrate prescriptions. Treatment failure with cephalexin monohydrate will be required prior to the initiation of a cephalexin hydrochloride monohydrate prescription.

(10) Prior authorization is required for epoetin prescribed for outpatients for the treatment of anemia. Patients who meet the following criteria may receive prior authorization for the use of epoetin:

1. Hematocrit less than 30 percent.
2. Transferrin saturation greater than 20 percent (transferrin saturation is calculated by dividing serum iron by the total iron binding capacity), or ferritin levels greater than 100 mg/ml.
3. Laboratory values must be current to within three months of the prior authorization request.
4. For AZT treated patients endogenous serum erythropoetin level needs to be greater than 500 mU/ml.
5. Patient should not have a demonstrated gastrointestinal bleed.
6. Exceptions may be made if the patient does not meet criteria "2," but is on aggressive oral iron therapy (i.e., twice or three times per day dosing). The prior authorization for this exception would be for a limited time.

(11) Prior authorization is required for filgrastim prescribed for outpatients whose conditions meet the following indications for use:

1. Decrease the incidence of infection due to severe neutropenia caused by myelosuppressive anticancer therapy. For this indication the following criteria apply: Filgrastim therapy can continue until the postnadir, absolute neutrophil count is greater than 10,000 cells per cubic millimeter and routine CBC and platelet counts are required twice per week.
2. Decrease the incidence of infection due to severe neutropenia in AIDS patients on zidovudine. For this indication, the following criteria apply: Evidence of neutropenic infection exists or absolute neutrophil count is below 750 cells per cubic millimeter, filgrastim is adjusted to maintain absolute neutrophil count of approximately 1000 cells per cubic millimeter, and routine CBC and platelet counts are required once per week.

(12) Prior authorization is required for selected brand-name drugs as determined by the department for which there is available an "A" rated bioequivalent generic product as determined by the federal Food and Drug Administration. For prior authorization to be considered, evidence of a treatment failure with the bioequivalent generic drug must be provided. A copy of a completed Med Watch form, FDA Form 3500, as submitted to the federal Food and Drug Administration shall be considered as evidence of a treatment failure. Brand-name drugs selected by the department shall be obtained from those recommended by the Iowa Medicaid drug utilization review commission after consultation with the state associations representing physicians. The list of selected brand-name drugs shall be published in the Medicaid Prescribed Drug Manual and the Physician Manual.

(13) Prior authorization is required for drugs used for the treatment of male sexual dysfunction. For prior authorization to be granted, the patient must:

1. Be 21 years of age or older.
2. Have a confirmed diagnosis of impotence of organic origin or psychosexual dysfunction.
3. Not be taking any medications which are contraindicated for concurrent use with the drug prescribed for treatment of male sexual dysfunction.

Approval for these drugs, with the exception of yohimbine, will be limited to four doses in a 30-day period.

The 72-hour emergency supply rule found above and at 78.1(2)*"a"*(3) does not apply for drugs used for the treatment of male sexual dysfunction. (Cross-reference 78.1(2)*"a"*(3))

(14) Prior authorization is required for ergotamine derivatives used for migraine headache treatment for quantities exceeding 18 unit doses of tablets, injections, or sprays per 30 days. Payment for ergotamine derivatives for migraine headache treatment beyond this limit will be considered on an individual basis after review of submitted documentation. For consideration, the following information must be supplied:

1. The diagnosis requiring therapy.
2. Documentation of current prophylactic therapy or documentation of previous trials and therapy failures with two different prophylactic medications.

(15) Prior authorization is required for narcotic agonist-antagonist nasal sprays for quantities exceeding 10 milliliters (approximately 60 doses) per 30 days. Payment for narcotic agonist-antagonist nasal spray beyond this limit will be considered on an individual basis after review of submitted documentation. For consideration, the diagnosis must be supplied. If the use is for the treatment of migraine headaches, documentation of current prophylactic therapy or documentation of previous trials and therapy failures with two different prophylactic medications must be provided.

(16) Prior authorization is required for isotretinoin therapy. Payment will be approved for isotretinoin therapy under the following conditions:

1. There are documented trials and therapy failures of systemic antibiotic therapy and topical tretinoin therapy.
2. There is a confirmed negative serum pregnancy test, if appropriate.
3. There is a plan for contraception in place, if appropriate.

Initial authorization will be granted for up to 20 weeks. A minimum of two months without therapy is required to consider subsequent authorizations.

(17) Prior authorization is required for oral antifungal therapy beyond a cumulative 90 days of therapy per 12-month period per patient. Payment for oral antifungal therapy beyond this limit will be authorized in cases where the patient has a diagnosis of an immunocompromised condition or a systemic fungal infection. Other conditions will be considered on an individual basis after review of submitted documentation. This prior authorization requirement does not apply to nystatin.

(18) Prior authorization is required for nonparenteral vasopressin derivatives of posterior pituitary hormone products. Payment for nonparenteral vasopressin derivatives of posterior pituitary hormone products will be authorized for the following diagnoses:

1. Diabetes insipidus.
2. Hemophilia A.
3. Von Willebrand's disease.

[Filed emergency 6/12/97—published 7/2/97, effective 7/1/97]
[Filed 6/12/97, Notice 4/23/97—published 7/2/97, effective 9/1/97]
[Filed 7/9/97, Notice 5/21/97—published 7/30/97, effective 10/1/97]
[Filed 9/16/97, Notice 7/2/97—published 10/8/97, effective 12/1/97]
[Filed 11/12/97, Notice 9/10/97—published 12/3/97, effective 2/1/98]
[Filed 1/14/98, Notice 11/19/97—published 2/11/98, effective 4/1/98]
[Filed 4/8/98, Notices 2/11/98, 2/25/98—published 5/6/98, effective 7/1/98]
[Filed 5/13/98, Notice 3/25/98—published 6/3/98, effective 8/1/98]
[Filed emergency 6/10/98—published 7/1/98, effective 6/10/98]
[Filed without Notice 6/10/98—published 7/1/98, effective 8/15/98]
[Filed 8/12/98, Notice 7/1/98—published 9/9/98, effective 11/1/98]
[Filed 9/15/98, Notice 7/15/98—published 10/7/98, effective 12/1/98]
[Filed 10/14/98, Notice 7/1/98—published 11/4/98, effective 12/9/98]
[Filed 12/9/98, Notice 10/7/98—published 12/30/98, effective 3/1/99]
[Filed 1/13/99, Notice 11/4/98—published 2/10/99, effective 4/1/99]
[Filed 2/10/99, Notice 12/16/98—published 3/10/99, effective 5/1/99]
[Filed 3/10/99, Notice 1/27/99—published 4/7/99, effective 6/1/99]
[Filed emergency 6/10/99—published 6/30/99, effective 7/1/99]

# CHAPTER 79
# OTHER POLICIES RELATING TO PROVIDERS OF MEDICAL AND REMEDIAL CARE

[Prior to 7/1/83, Social Services[770] Ch 79]

**441—79.1(249A) Principles governing reimbursement of providers of medical and health services.** The basis of payment for services rendered by providers of services participating in the medical assistance program is either a system based on the provider's allowable costs of operation or a fee schedule. Generally, institutional types of providers such as hospitals and intermediate care facilities are reimbursed on a cost-related basis and practitioners such as physicians, dentists, optometrists, and similar providers are reimbursed on the basis of a fee schedule. Providers of service must accept reimbursement based upon the department's methodology without making any additional charge to the recipient.

**79.1(1)** *Types of reimbursement.*

*a.* *Prospective cost-related.* Providers are reimbursed on the basis of a per diem rate calculated prospectively for each participating provider based on reasonable and proper costs of operation. The rate is determined by establishing a base year per diem rate to which an annual index is applied.

*b.* *Retrospective cost-related.* Providers are reimbursed on the basis of a per diem rate calculated retrospectively for each participating provider based on reasonable and proper costs of operation with suitable retroactive adjustments based on submission of financial and statistical reports by the provider. The retroactive adjustment represents the difference between the amount received by the provider during the year for covered services and the amount determined in accordance with an accepted method of cost apportionment (generally the Medicare principles of apportionment) to be the actual cost of service rendered medical assistance recipients.

*c.* *Fee schedules.* Fees for the various procedures involved are determined by the department with advice and consultation from the appropriate professional group. The fees are intended to reflect the amount of resources (time, training, experience) involved in each procedure. Individual adjustments will be made periodically to correct any inequity or to add new procedures or eliminate or modify others. If product cost is involved in addition to service, reimbursement is based either on a fixed fee, wholesale cost, or on actual acquisition cost of the product to the provider, or product cost is included as part of the fee schedule. Providers on fee schedules are reimbursed the lower of:

(1) The actual charge made by the provider of service.

(2) The maximum allowance under the fee schedule for the item of service in question.

Payment levels for fee schedule providers of service will be increased on an annual basis by an economic index reflecting overall inflation as well as inflation in office practice expenses of the particular provider category involved to the extent data is available. Annual increases will be made beginning July 1, 1988.

There are some variations in this methodology which are applicable to certain providers. These are set forth below in subrules 79.1(3) to 79.1(9) and 79.1(15).

Copies of fee schedules in effect for the providers covered by fee schedules can be obtained by contacting the department's fiscal agent at the following address: Consultec, Inc., P.O. Box 14422, Des Moines, Iowa 50306-3422.

*d.* * *Monthly fee for service.* Providers are reimbursed on the basis of a payment for a month's provision of service for each client enrolled in a case management program for any portion of the month based on reasonable and proper costs for service provision. The fee will be determined by the department with advice and consultation from the appropriate professional group and will reflect the amount of resources involved in services provision.

*Effective 1/1/89, IAB 12/14/88

*e. Retrospectively limited prospective rates.* Providers are reimbursed on the basis of a rate for a unit of service calculated prospectively for each participating provider (and, for supported community living daily rates, for each consumer or site) based on projected or historical costs of operation, subject to the maximums listed in subrule 79.1(2) and to retrospective adjustment based on actual, current costs of operation so as not to exceed reasonable and proper costs by more than 2.5 percent.

The prospective rates for new providers who have not submitted six months of cost reports will be based on a projection of the provider's reasonable and proper costs of operation until the provider has submitted an annual cost report that includes a minimum of six months of actual costs. The prospective rates paid established providers who have submitted an annual report with a minimum of a six-month history are based on reasonable and proper costs in a base period and are adjusted annually for inflation. The prospective rates paid to both new and established providers are subject to the maximums listed in subrule 79.1(2) and to retrospective adjustment based on the provider's actual, current costs of operation as shown by financial and statistical reports submitted by the provider, so as not to exceed reasonable and proper costs actually incurred by more than 2.5 percent.

*f. Contractual rate.* Providers are reimbursed on a basis of costs incurred pursuant to a contract between the provider and subcontractor.

**79.1(2)** *Basis of reimbursement of specific provider categories.*

| Provider category | Basis of reimbursement | Upper limit |
|---|---|---|
| Ambulance | Fee schedule | Ground ambulance: Fee schedule in effect 6/30/99 plus 2%.<br>Air ambulance: A base rate of $208.08 plus $7.80 per mile for each mile the patient is carried. |
| Ambulatory surgical centers | Base rate fee schedule as determined by Medicare. See 79.1(3) | Rate determined by Medicare |
| Area education agencies | Fee schedule | Fee schedule in effect 6/30/99 plus 2% |
| Audiologists | Fee schedule | Fee schedule in effect 6/30/99 plus 2% |
| Birth centers | Fee schedule | Fee schedule in effect 6/30/99 plus 2% |
| Case management providers | Retrospective cost-related | Retrospective rate |
| Certified registered nurse anesthetists | Fee schedule | Fee schedule in effect 6/30/99 plus 2% |
| Chiropractors | Fee schedule | Fee schedule in effect 6/30/99 plus 2% |
| Clinics | Fee schedule | Fees as determined by the physician fee schedule |
| Community mental health centers | Fee schedule | Reimbursement rate for center in effect 6/30/99 plus 5% |
| Dentists | Fee schedule | Fee schedule in effect 6/30/99 plus 2% |

| Provider category | Basis of reimbursement | Upper limit |
|---|---|---|
| Durable medical equipment, prosthetic devices and medical supply dealers | Fee schedule. See 79.1(4) | Fee schedule in effect 6/30/99 plus 2% |
| Family planning clinics | Fee schedule | Fees in effect 6/30/99 plus 2% |
| Family or pediatric nurse practitioner | Fee schedule | Fee schedule in effect 6/30/99 plus 2% |
| Federally qualified health centers (FQHC) | Retrospective cost-related | 1. Reasonable cost as determined by Medicare cost reimbursement principles<br>2. In the case of services provided pursuant to a contract between an FQHC and a managed care organization (MCO), reimbursement from the MCO shall be supplemented to achieve "1" above |
| Genetic consultation clinics | Fee schedule | Fee schedule for clinic in effect 6/30/99 plus 2% |
| HCBS AIDS/HIV waiver service providers, including: | | |
| 1. Counseling | | |
| Individual: | Fee schedule | $10 per unit |
| Group: | Fee schedule | $39.98 per hour |
| 2. Home health aide | Retrospective cost-related | Maximum Medicaid rate in effect on 6/30/99 plus 2% |
| 3. Homemaker | Fee schedule | $18.36 per hour |
| 4. Nursing care | Agency's financial and statistical cost report and Medicare percentage rate per visit | Cannot exceed $74.25 per visit |

| Provider category | Basis of reimbursement | Upper limit |
|---|---|---|
| 5. Respite care providers, including: | | |
| In-home: | | |
| Home health agency | Fee schedule | $106.08 per 4- to 8-hour unit |
| Out-of-home: | | |
| Nursing facility, or intermediate care facility for the mentally retarded | Prospective reimbursement | Limit for nursing facility level of care |
| Hospital or skilled nursing facility | Prospective reimbursement | Limit for skilled nursing facility level of care |
| Foster group care | Prospective reimbursement | P.O.S. contract rate |
| Foster family home | Fee schedule | Emergency care rate (See 441—subrule 156.11(2)) |
| Camps | Fee schedule | $117.30 per day |
| Hourly rate providers: | | |
| Adult day care | Fee schedule | $12.24 per hour |
| HCBS MR waiver | Fee schedule See 79.1(15) | $12.24 per hour |
| Home care agency | Fee schedule | $12.24 per hour |
| Home health agency | Fee schedule | $12.24 per hour |
| Day camp | Fee schedule | $12.24 per hour |
| 6. Home-delivered meal providers | Fee schedule | $7.14 per meal. Maximum of 14 meals per week |
| 7. Adult day care | Fee schedule | Veterans administration contract rate or $20.40 per half day, $40.80 per full day, or $61.20 per extended day if no veterans administration contract. |
| 8. Consumer-directed attendant care: | | |
| Agency provider | Fee agreed upon by consumer and provider | $18.36 per hour<br>$106.08 per day |
| Individual provider | Fee agreed upon by consumer and provider | $12.24 per hour<br>$71.40 per day |

| Provider category | Basis of reimbursement | Upper limit |
|---|---|---|
| HCBS brain injury waiver service providers, including: | | |
| 1. Supported community living | Retrospectively limited prospective rates. See 79.1(15) | $32.64 per hour, $73.61 per day |
| 2. Respite care providers, including: | | |
| Nonfacility care: | Retrospectively limited prospective rates. See 79.1(15) | $12.24 per hour. $106.08 per 4- to 8-hour day |
| Facility care: | | |
| Hospital or skilled nursing facility | Prospective reimbursement | Limit for skilled nursing facility level of care |
| Nursing facility, or intermediate care facility for the mentally retarded | Prospective reimbursement | Limit for nursing facility level of care |
| Foster group care | Prospective reimbursement. See 441—185.106(234) | Rehabilitative treatment and supportive services rate |
| 3. Personal emergency response system | Fee schedule | Initial one-time fee of $45.90. Ongoing monthly fee of $35.70. |
| 4. Case management | Fee schedule | $571.49 per month |
| 5. Supported employment: | | |
| a. Instructional activities to obtain a job | Fee schedule | $34.70 per day |
| b. Initial instructional activities on the job | Retrospectively limited prospective rates. See 79.1(15) | $15.77 per hour |
| c. Enclave | Retrospectively limited prospective rates. See 79.1(15) | $5.78 per hour |
| d. Follow-along | Fee schedule. See 79.1(15) | $262.91 per month |
| 6. Transportation | Fee schedule | State per mile rate |
| 7. Adult day care | Fee schedule | $20.40 per half day, $40.80 per full day, or $61.20 per extended day |
| 8. Consumer-directed attendant care: | Fee agreed upon by consumer and provider | $18.36 per hour |
| Agency provider | | $106.08 per day |
| Individual provider | Fee agreed upon by consumer and provider | $12.24 per hour<br>$71.40 per day |
| 9. Home and vehicle modification | Fee schedule | $500 per month, not to exceed $6,000 per year |
| 10. Specialized medical equipment | Fee schedule | $500 per month, not to exceed $6,000 per year |
| 11. Behavioral programming | Fee schedule | $10 per 15 minutes |

| Provider category | Basis of reimbursement | Upper limit |
|---|---|---|
| 12. Family counseling and training | Fee schedule | $39.98 per hour |
| 13. Prevocational services | Fee schedule. See 79.1(17) | $34.70 per day |
| HCBS elderly waiver service providers, including: | | |
| 1. Adult day care | Fee schedule | Veterans administration contract rate or $20.40 per half day, $40.80 per full day, or $61.20 per extended day if no veterans administration contract. |
| 2. Emergency response system | Fee schedule | Initial one-time fee $45.90. Ongoing monthly fee $35.70. |
| 3. Home health aides | Retrospective cost-related | Maximum Medicaid rate in effect on 6/30/99 plus 2% |
| 4. Homemakers | Fee schedule | Maximum of $18.36 per hour |
| 5. Nursing care | Fee schedule as determined by Medicare | $74.25 per visit |
| 6. Respite care providers, including: | | |
| In-home: | | |
| Home health agency | Fee schedule | $106.08 per 4- to 8-hour unit |
| Out-of-home: | | |
| Nursing facility | Prospective reimbursement | Limit for nursing facility level of care |
| Hospital or skilled nursing facility | Prospective reimbursement | Limit for skilled nursing facility level of care |
| Hourly rate providers: | | |
| Adult day care | Fee schedule | $12.24 per hour |
| Day camp | Fee schedule | $12.24 per hour |
| Home care agency | Fee schedule | $12.24 per hour |
| Home health agency | Fee schedule | $12.24 per hour |
| HCBS MR waiver | Fee schedule See 79.1(15) | $12.24 per hour |
| 7. Chore providers | Fee schedule | $7.14 per half hour |
| 8. Home-delivered meal providers | Fee schedule | $7.14 per meal. Maximum of 14 meals per week. |
| 9. Home and vehicle modification providers | Fee schedule | $1000 lifetime maximum |
| 10. Mental health outreach providers | Fee schedule | On-site Medicaid reimbursement rate for center or provider. Maximum of 1440 units per year |

| Provider category | Basis of reimbursement | Upper limit |
|---|---|---|
| 11. Transportation providers | Fee schedule | State per mile rate for regional transit providers or rate established by area agency on aging. |
| 12. Nutritional counseling | Fee schedule | $7.65 per quarter hour |
| 13. Assistive devices | Fee schedule | $102 per unit |
| 14. Senior companion | Fee schedule | $6.12 per hour |
| 15. Consumer-directed attendant care: | | |
| Agency provider | Fee agreed upon by consumer and provider | $18.36 per hour<br>$106.08 per day |
| Individual provider | Fee agreed upon by consumer and provider | $12.24 per hour<br>$71.40 per day |
| HCBS ill and handicapped waiver service providers, including: | | |
| 1. Homemakers | Fee schedule | Maximum of $18.36 per hour |
| 2. Home health aides | Retrospective cost-related | Maximum Medicaid rate in effect on 6/30/99 plus 2% |
| 3. Adult day care | Fee schedule | Veterans administration contract rate or $20.40 per half day, $40.80 per full day, or $61.20 per extended day if no veterans administration contract. |

| Provider category | Basis of reimbursement | Upper limit |
|---|---|---|
| 4. Respite care providers, including: | | |
| In-home: | | |
| Home health agency | Fee schedule | $106.08 per 4- to 8-hour unit |
| Out-of-home: | | |
| Hospital or skilled nursing facility | Prospective reimbursement | Limit for skilled nursing facility level of care |
| Nursing facility, or intermediate care facility for the mentally retarded | Prospective reimbursement | Limit for nursing facility level of care |
| Foster group care | Prospective reimbursement. See 441—185.106(234) | Rehabilitative treatment and supportive services rate |
| Foster family home | Fee schedule | Emergency care rate (See 441—subrule 156.11(2)) |
| Camps | Fee schedule | $117.30 per day |
| Hourly rate providers: | | |
| Adult day care | Fee schedule | $12.24 per hour |
| HCBS MR waiver | Fee schedule See 79.1(15) | $12.24 per hour |
| Home care agency | Fee schedule | $12.24 per hour |
| Home health agency | Fee schedule | $12.24 per hour |
| Day camp | Fee schedule | $12.24 per hour |
| 5. Nursing care | Agency's financial and statistical cost report and Medicare percentage rate per visit | Cannot exceed $74.25 per visit |
| 6. Counseling | | |
| Individual: | Fee schedule | $10 per unit |
| Group: | Fee schedule | $39.98 per hour |
| 7. Consumer-directed attendant care: | | |
| Agency provider | Fee agreed upon by consumer and provider | $18.36 per hour<br>$106.08 per day |
| Individual provider | Fee agreed upon by consumer and provider | $12.24 per hour<br>$71.40 per day |

| Provider category | Basis of reimbursement | Upper limit |
|---|---|---|
| HCBS MR waiver service providers, including: | | |
| 1. Supported community living | Retrospectively limited prospective rates. See 79.1(15) | $32.64 per hour, not to exceed a total per month of $73.61 times the number of days in the month. $73.61 per day. Variations to the upper limit may be granted by the division of medical services when cost-effective and in accordance with the service plan as long as the statewide average remains at or below $73.61 per day. |
| 2. Respite care providers, including: | | |
| Nonfacility care: | Retrospectively limited prospective rates. See 79.1(15) | $12.24 per hour |
| Facility care: | | |
| Hospital or skilled nursing facility | Prospective reimbursement | Limit for skilled nursing facility level of care |
| Nursing facility, or intermediate care facility for the mentally retarded | Prospective reimbursement | Limit for nursing facility level of care |
| Foster group care | Prospective reimbursement. See 441—185.106(234) | Rehabilitative treatment and supportive services rate |
| 3. Supported employment: | | |
| a. Instructional activities to obtain a job | Fee schedule | $34.70 per day. Maximum of 80 units, 5 per week, limit 16 weeks |
| b. Initial instructional activities on the job | Retrospectively limited prospective rates. See 79.1(15) | $15.77 per hour. Maximum of 40 units per week |
| c. Enclave | Retrospectively limited prospective rates. See 79.1(15) | $5.78 per hour. Maximum of 40 units per week |
| d. Follow-along | Fee schedule. See 79.1(15) | $262.91 per month. Maximum of 12 units per fiscal year or $8.62 per day for a partial month. |

| Provider category | Basis of reimbursement | Upper limit |
|---|---|---|
| 4. Nursing | Fee schedule as determined by Medicare | Maximum Medicare rate |
| 5. Home health aides | Retrospective cost-related | Maximum Medicaid rate in effect on 6/30/99 plus 2% |
| 6. Personal emergency response system | Fee schedule | Initial one-time fee of $38.15. Ongoing monthly fee of $26.01 |
| 7. Home and vehicle modifications | Contractual rate. See 79.1(15) | Maximum amount of $5,000 per consumer lifetime |
| 8. Consumer-directed attendant care: | | |
| Agency provider | Fee agreed upon by consumer and provider | $18.36 per hour<br>$106.08 per day |
| Individual provider | Fee agreed upon by consumer and provider | $12.24 per hour<br>$71.40 per day |
| HCBS physical disability waiver service providers, including: | | |
| 1. Consumer-directed attendant care: | | |
| Agency provider | Fee agreed upon by consumer and provider | $18.36 per hour<br>$106.08 per day |
| Individual provider | Fee agreed upon by consumer and provider | $12.24 per hour<br>$71.40 per day |
| 2. Home and vehicle modification providers | Fee schedule | $500 per month, not to exceed $6000 per year |
| 3. Personal emergency response system | Fee schedule | Initial one-time fee of $45.90. Ongoing monthly fee of $35.70. |
| 4. Specialized medical equipment | Fee schedule | $500 per month, not to exceed $6000 per year |
| 5. Transportation | Fee schedule | State per mile rate for regional transit providers, or rate established by area agency on aging. Reimbursement shall be at the lowest cost service rate consistent with the consumer's needs. |

| Provider category | Basis of reimbursement | Upper limit |
|---|---|---|
| Hearing aid dealers | Fee schedule plus product acquisition cost | Fee schedule in effect 6/30/99 plus 2% |
| Home health agencies (Encounter services-intermittent services) | Retrospective cost-related | Maximum Medicaid rate in effect on 6/30/99 plus 2% |
| (Private duty nursing or personal care and VFC vaccine administration for persons aged 20 and under) | Interim fee schedule with retrospective cost settling based on Medicaid methodology | Retrospective cost settling according to Medicaid methodology not to exceed the rate in effect on 6/30/99 plus 2% |
| Hospices | Fee schedule as determined by Medicare | Medicare cap (See 79.1(14)*"d"*) |

| Provider category | Basis of reimbursement | Upper limit |
|---|---|---|
| Hospitals (Inpatient) | Prospective reimbursement. See 79.1(5) | Reimbursement rate in effect 6/30/99 increased by 2% |
| Hospitals (Outpatient) | Prospective reimbursement for providers listed at 78.31(1)*"a"* to *"f."* See 79.1(16) | Ambulatory patient group rate (plus an evaluation rate) and assessment payment rate in effect on 6/30/99 increased by 2% |
| | Fee schedule for providers listed at 441—paragraphs 78.31(1)*"g"* to *"n."* See 79.1(16) | Rates in effect on 6/30/99 increased by 2% |
| Independent laboratories | Fee schedule. See 79.1(6) | Medicare fee schedule. See 79.1(6) |
| Intermediate care facilities for the mentally retarded | Prospective reimbursement. See 441—82.5(249A) | Eightieth percentile of facility costs as calculated from 12/31/98 cost reports |
| Lead inspection agency | Fee schedule | Fee schedule in effect 6/30/99 plus 2% |
| Maternal health centers | Reasonable cost per procedure on a prospective basis as determined by the department based on financial and statistical data submitted annually by the provider group | Fee schedule in effect 6/30/99 plus 2% |
| Nurse-midwives | Fee schedule | Fee schedule in effect 6/30/99 plus 2% |
| Nursing facilities: | | |
| 1. Nursing facility care | Prospective reimbursement. See 441—subrule 81.10(1) and 441—81.6(249A) | Seventieth percentile of facility costs as calculated from all 6/30/99 cost reports |
| 2. Skilled nursing care providers, including: | | |
| Hospital-based facilities | Prospective reimbursement. See 79.1(9) | Facility base rate per diems used on 6/30/99 inflated by 2% subject to maximum payment rate at the sixtieth percentile of costs of all hospital-based skilled facilities |

| Provider category | Basis of reimbursement | Upper limit |
|---|---|---|
| Freestanding facilities | Prospective reimbursement. See 79.1(9) | Facility base rate per diems used on 6/30/99 inflated by 2% subject to maximum payment rate at the sixty-ninth percentile of costs of all freestanding skilled facilities |
| Opticians | Fee schedule. Fixed fee for lenses and frames; other optical materials at product acquisition cost | Reimbursement rate for provider in effect 6/30/99 plus 2% |
| Optometrists | Fee schedule. Fixed fee for lenses and frames; other optical materials at product acquisition cost | Reimbursement rate for provider in effect 6/30/99 plus 2% |
| Orthopedic shoe dealers | Fee schedule | Reimbursement rate for provider in effect 6/30/99 plus 2% |
| Physical therapists | Fee schedule | Fee schedule in effect 6/30/99 plus 2% |
| Physicians (doctors of medicine or osteopathy) | Fee schedule. See 79.1(7) | Fee schedule in effect 6/30/99 plus 2% |
| Podiatrists | Fee schedule | Fee schedule in effect 6/30/99 plus 2% |
| Prescribed drugs | See 79.1(8) | $4.10 or $6.38 dispensing fee (See 79.1(8)*"a"* and *"e"*) |

| Provider category | Basis of reimbursement | Upper limit |
|---|---|---|
| Psychiatric medical institutions for children (Inpatient) | Prospective reimbursement | Reimbursement rate for provider based on per diem rates for actual costs on 6/30/99, not to exceed a maximum of $145.74 per day |
| (Outpatient day treatment) | Fee schedule | Fee schedule in effect 6/30/99 plus 2% |
| Psychologists | Fee schedule | Reimbursement rate for provider in effect 6/30/99 plus 2% |
| Rehabilitation agencies | Retrospective cost-related | Reimbursement rate for agency in effect 6/30/99 plus 2% |
| Rehabilitative treatment services | Reasonable and necessary costs per unit of service based on data included on the Rehabilitative Treatment and Supportive Services Financial and Statistical Report, Form 470-3049. See 441—185.101(234) to 441—185.107(234). A provider who is an individual may choose between the fee schedule in effect November 1, 1993 (See 441—subrule 185.103(7)) and reasonable and necessary costs. | No cap |
| Rural health clinics (RHC) | Retrospective cost-related | 1. Reasonable cost as determined by Medicare cost reimbursement principles<br>2. In the case of services provided pursuant to a contract between an RHC and a managed care organization (MCO), reimbursement from the MCO shall be supplemented to achieve "1" above |
| Screening centers | Fee schedule | Reimbursement rate for center in effect 6/30/99 plus 2% |
| State operated institutions | Retrospective cost-related | |

**79.1(3)** *Ambulatory surgical centers.* Payment is made for facility services on a fee schedule which is determined by Medicare. These fees are grouped into eight categories corresponding to the difficulty or complexity of the surgical procedure involved. Procedures not classified by Medicare shall be included in the category with comparable procedures.

Services of the physician are reimbursed on the basis of a fee schedule (see subrule 79.1(1)"*c*"). This payment is made directly to the physician.

**79.1(4)** *Durable medical equipment, prosthetic devices, medical supply dealers.* Fees for durable medical appliances, prosthetic devices and medical supplies are developed from several pricing sources and are based on pricing appropriate to the date of service; prices are developed using prior calendar year price information. The average wholesale price from all available sources is averaged to determine the fee for each item. Payment for used equipment will be no more than 80 percent of the purchase allowance. For supplies, equipment, and servicing of standard wheelchairs, standard hospital beds, enteral nutrients, and enteral and parenteral supplies and equipment, the fee for payment shall be the lowest price for which the devices are widely and consistently available in a locality.

**79.1(5)** *Reimbursement for hospitals.*

*a. Definitions.*

*"Adolescent"* shall mean a Medicaid patient 17 years or younger.

*"Adult"* shall mean a Medicaid patient 18 years or older.

*"Average daily rate"* shall mean the hospital's final payment rate multiplied by the DRG weight and divided by the statewide average length of stay for a DRG.

*"Base year cost report"* shall mean the hospital's cost report with fiscal-year-end on or after January 1, 1995, and prior to January 1, 1996, except as noted in 79.1(5)"*x*." Cost reports shall be reviewed using Medicare's cost reporting regulations for cost reporting periods ending on or after January 1, 1995, and prior to January 1, 1996.

*"Blended base amount"* shall mean the case-mix adjusted, hospital-specific operating cost per discharge associated with treating Medicaid patients, plus the statewide average case-mix adjusted operating cost per Medicaid discharge, divided by two. This base amount is the value to which add-on payments for inflation, capital costs, direct medical education costs, and costs associated with treating a disproportionate share of poor patients and indirect medical education are added to form a final payment rate.

*"Capital costs"* shall mean an add-on to the blended base amount which shall compensate for Medicaid's portion of capital costs. Capital costs for buildings, fixtures and movable equipment are defined in the hospital's base year cost report, are case-mix adjusted, are adjusted to reflect 80 percent of allowable costs, and are adjusted to be no greater than one standard deviation off the mean Medicaid blended capital 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 cases treated in a hospital compared to the statewide average.

*"Cost outlier"* shall mean cases which have an extraordinarily high cost as established in 79.1(5)"*f*," so as to be eligible for additional payments above and beyond the initial DRG payment.

*"Diagnosis-related group (DRG)"* shall mean a group of similar diagnoses combined based on patient age, procedure coding, comorbidity, and complications.

(5) Allocation for disproportionate share. To determine the total amount of funding that shall be allocated to the graduate medical education and disproportionate share fund for disproportionate share payments, the department shall:

1. Sum all routine disproportionate share payments for the fee for service population reimbursed to qualifying providers with dates of discharge from October 1, 1996, through March 31, 1997, and paid through June 30, 1997. These claims shall then be multiplied by two and statistically adjusted to fully annualize the amount of money to be placed in the fund for distribution and the total amount of reimbursement shall be applied to the fund.

2. Sum all routine disproportionate share payments from claims made to qualifying providers when those claims have been used as a basis for the calculation of capitation rates and reimbursement with either an HMO or other prepaid health plan with which the department has entered into a contract effective on or after July 1, 1997.

For each prepaid health plan, divide the total dollar reimbursement from claims by the number of member months applicable to the rate-setting methodology for the per member per month (PMPM) allocation to calculate the amount of reimbursement to be allocated to the fund that represents capitation rate reimbursement allocation for routine disproportionate share. The disproportionate share PMPM allocation shall then be multiplied by the total number of members enrolled in the plan for state fiscal year 1997, allocating that amount of money to the fund.

3. Trend the total allocation for routine disproportionate share (which includes money for both the fee for service population and the capitated risk-based population, calculated under numbers "1" and "2" above) forward using annually appropriated legislative update factors and determine the total amount of money that shall be allocated to the graduate medical education and disproportionate share fund for disproportionate share Medicaid reimbursement. No adjustments shall be made to this fund beyond appropriated updates. The total amount of disproportionate share reimbursement cannot exceed the cap that was implemented under Public Law 102-234.

(6) Distribution of disproportionate share fund. Distribution of the fund for disproportionate share shall be on a quarterly basis beginning October 1, 1997, and shall be calculated by taking the previous fiscal year's percentage allocation of direct medical education reimbursement (based upon paid claims to qualifying hospitals) and dividing the total amount of money allocated to the graduate medical education and disproportionate share fund for disproportionate share by each respective hospital's percentage.

If a hospital fails to qualify for reimbursement for disproportionate share under Iowa Medicaid regulations, the amount of money that would otherwise be allocated for that hospital shall be removed from the total fund.

*z. Adjustments to the graduate medical education and disproportionate share fund for changes in utilization.* Money shall be added to or subtracted from the graduate medical education and disproportionate share fund when the average monthly Medicaid population deviates from the previous year's averages by greater than 5 percent. The average annual population (expressed in a monthly total) shall be determined on June 30 for both the previous and current years by adding the total enrolled population for all respective months from both years' B-1 MARS report and dividing each year's totals by 12. If the average monthly number of enrolled persons for the current year is found to vary more than 5 percent from the previous year, a per member per month (PMPM) amount shall be calculated for each component (using the average number of eligibles for the previous year calculated above) and an annualized PMPM adjustment shall be made for each eligible person that is beyond the 5 percent variance.

**79.1(6)** *Independent laboratories.* The maximum payment for clinical diagnostic laboratory tests performed by an independent laboratory will be the areawide fee schedule established by the Health Care Financing Administration (HCFA). The fee schedule is based on the definition of laboratory procedures from the Physician's Current Procedural Terminology (CPT) published by the American Medical Association. The fee schedules are adjusted annually by HCFA to reflect changes in the Consumer Price Index for All Urban Consumers.

**79.1(7)** *Physicians.* The fee schedule is based on the definitions of medical and surgical procedures given in the most recent edition of Physician's Current Procedural Terminology (CPT). Refer to 441—paragraph 78.1(2)*"e"* for the guidelines for immunization replacement.

**79.1(8)** *Prescribed drugs.* The amount of payment shall be based on several factors in accordance with 42 CFR 447.331—333 as amended to October 28, 1987:

*a.* "Estimated acquisition cost (EAC)" is defined as the average wholesale price as published by First Data Bank less 10 percent.

*"Maximum allowable cost (MAC)"* is defined as the upper limit for multiple source drugs established in accordance with the methodology of the Health Care Financing Administration (HCFA) as described in 42 CFR 447.332(a)(i) and (ii).

The basis of payment for prescribed drugs for which the MAC has been established shall be the lesser of the MAC plus a professional dispensing fee of $4.10 or the pharmacist's usual and customary charge to the general public.

The basis of payment for drugs for which the MAC has not been established shall be the lesser of the EAC plus a professional dispensing fee of $6.38 or the pharmacist's usual and customary charge to the general public.

If a physician certifies in the physician's handwriting that, in the physician's medical judgment, a specific brand is medically necessary for a particular recipient, the MAC does not apply and the payment equals the average wholesale price of the brand name product less 10 percent. If a physician does not so certify, and a lower cost equivalent product is not substituted by the pharmacist, the payment for the product equals the established MAC.

Equivalent products shall be defined as those products which meet therapeutic equivalent standards as published in the federal Food and Drug Administration document, "Approved Prescription Drug Products With Therapeutic Equivalence Evaluations."

*b.* The determination of the unit cost component of the drug shall be based on the package size of drugs most frequently purchased by providers.

*c.* No payment shall be made for sales tax.

*d.* All hospitals which wish to administer vaccines which are available through the vaccines for children program to Medicaid recipients shall enroll in the vaccines for children program. In lieu of payment, vaccines available through the vaccines for children program shall be accessed from the department of public health for Medicaid recipients. Hospitals receive reimbursement for the administration of vaccines to Medicaid recipients through the DRG reimbursement for inpatients and APG reimbursement for outpatients.

*e.* The basis of payment for nonprescription drugs shall be the same as specified in paragraph *"a"* except that a maximum allowable reimbursable cost for these drugs shall be established by the department at the median of the average wholesale prices of the chemically equivalent products available. No exceptions for reimbursement for higher cost products will be approved.

EXCEPTION: Dental providers are required to complete Form 470-3174, Addendum to Dental Provider Agreement for Orthodontia, to receive reimbursement under the early and periodic screening, diagnosis, and treatment program. Rehabilitative treatment service providers wishing to participate in the program shall execute an agreement with the department on Form 470-3052, Rehabilitative Treatment and Supportive Services Contract.

In these agreements, the provider agrees to the following:

**79.6(1)** To maintain clinical and fiscal records as specified in rule 79.3(249A).

**79.6(2)** That the charges as determined in accordance with the department's policy shall be the full and complete charge for the services provided and no additional payment shall be claimed from the recipient or any other person for services provided under the program.

**79.6(3)** That it is understood that payment in satisfaction of the claim will be from federal and state funds and any false claims, statements, or documents, or concealment of a material fact may be prosecuted under applicable federal and state laws.

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

**441—79.7(249A) Medical assistance advisory council.**

**79.7(1)** *Officers.* Officers shall be a chairperson, and a vice-chairperson.

*a.* Elections will be held the first meeting after the beginning of the calendar year.

*b.* The term of office shall be two years. Officers shall serve no more than two terms for each office.

*c.* The vice-chairperson shall serve in the absence of the chairperson.

*d.* The chairperson and vice-chairperson shall have the right to vote on any issue before the council.

*e.* The chairperson shall appoint a nominating committee of not less than three members and shall appoint other committees approved by the council.

**79.7(2)** *Alternates.* Each organization represented may select one alternate as representative when the primary appointee is unable to be present. Alternates may attend any and all meetings of the council, but only one representative of each organization shall be allowed to vote.

**79.7(3)** *Expenses.* The travel expenses of the public representatives and other expenses, such as those for clerical services, mailing, telephone, and meeting place, shall be the responsibility of the department of human services. The department shall arrange for a meeting place, related services, and accommodations.

**79.7(4)** *Meetings.* The council shall meet at least four times each year. At least two of these meetings shall be with the department of human services. Additional meetings may be called by the chairperson, upon written request of at least 50 percent of the members, or by the commissioner of the department of human services.

*a.* Meetings shall be held in the Des Moines, Iowa, area, unless other notification is given.

*b.* Written notice of council meetings shall be mailed at least two weeks in advance of such meetings. Each notice shall include an agenda for the meeting.

**79.7(5)** *Procedures.*

*a.* A quorum shall consist of 50 percent of the voting members.

*b.* Where a quorum is present, a position is carried by two-thirds of the council members present.

*c.* Minutes of council meetings and other written materials developed by the council shall be distributed by the department to each member and alternate and to the executive office of each organization or body represented.

*d.* Notice shall be made to the representing organization when the member, or alternate, has been absent from three consecutive meetings.

*e.* In cases not covered by these rules, Robert's Rules of Order shall govern.

**79.7(6)** Duties. The medical assistance advisory council shall:

*a.* Make recommendations on the reimbursement for medical services rendered by providers of services.

*b.* Assist in identifying unmet medical needs and maintenance needs which affect health.

*c.* Make recommendations for objectives of the program and for methods of program analysis and evaluation, including utilization review.

*d.* Reserved.

*e.* Reserved.

*f.* Recommend ways in which needed medical supplies and services can be made available most effectively and economically to the program recipients.

*g.* Advise on such administrative and fiscal matters as the commissioner of the department of human services may request.

*h.* Advise professional groups and act as liaison between them and the department.

*i.* Report at least annually to the appointing authority.

*j.* Perform other functions as may be provided by state or federal law or regulation.

*k.* Communicate information considered by the council to the member organizations and bodies.

**79.7(7)** *Responsibilities.*

*a.* Recommendations of the council shall be advisory and not binding upon the department of human services or the member organizations and bodies. The department will consider all advice and counsel of the council.

*b.* The council may choose subjects for consideration and recommendation. It shall consider all matters referred to it by the department of human services.

*c.* Any matter referred by a member organization or body shall be considered upon an affirmative vote of the council.

*d.* The department shall provide the council with reports, data, and proposed and final amendments to rules, regulations, laws, and guidelines, for its information, review, and comment.

*e.* The department shall present the biennial budget for the medical assistance program for review and comment.

*f.* The department shall permit staff members to appear before the council to review and discuss specific information and problems.

*g.* The department shall maintain a current list of members and alternates on the council.

**441—79.8(249A) Requests for prior authorization.** When the fiscal agent has not reached a decision on a request for prior authorization after 60 days from the date of receipt by the fiscal agent, the request will be approved.

**79.8(1)** Requests for prior approval for any items or procedures other than prescription drugs shall be made using Form XIX P Auth, Request for Prior Authorization. For prior authorization of prescription drugs, requests may be made by telephone, facsimile (fax) or mail. Requests for prior authorization made by fax or by mail shall be made using Form XIX Drug P Auth, Request For Drug Prior Authorization.

Requests for prior approval shall be sent to Consultec, Inc., P.O. Box 14422, Des Moines, Iowa 50306-3422. The request should include the relevant criteria applicable to the particular service, medication or equipment, for which prior approval is sought, according to the criteria outlined in rule 441—78.28(249A). Copies of history and examination results may be attached rather than incorporated in the letter.

[Filed 9/18/91, Notices 7/10/91, 7/24/91—published 10/16/91, effective 12/1/91]
[Filed 12/11/91, Notice 10/16/91—published 1/8/92, effective 3/1/92]
[Filed 12/11/91, Notice 10/30/91—published 1/8/92, effective 3/1/92]
[Filed emergency 1/16/92 after Notice 11/27/91—published 2/5/92, effective 3/1/92****]
[Filed 2/13/92, Notice 1/8/92—published 3/4/92, effective 4/8/92]
[Filed emergency 4/15/92—published 5/13/92, effective 4/16/92]
[Filed emergency 5/13/92 after Notice 4/1/92—published 6/10/92, effective 5/14/92]
[Filed emergency 6/12/92—published 7/8/92, effective 7/1/92]
[Filed 6/11/92, Notices 3/18/92, 4/29/92—published 7/8/92, effective 9/1/92]
[Filed without Notice 6/11/92—published 7/8/92, effective 9/1/92]
[Filed 8/14/92, Notice 7/8/92—published 9/2/92, effective 11/1/92]
[Filed emergency 9/11/92—published 9/30/92, effective 10/1/92]
[Filed 9/11/92, Notice 7/8/92—published 9/30/92, effective 12/1/92]
[Filed 10/15/92, Notice 8/19/92—published 11/11/92, effective 1/1/93]
[Filed 11/10/92, Notice 9/30/92—published 12/9/92, effective 2/1/93]
[Filed emergency 12/30/92 after Notice 11/25/92—published 1/20/93, effective 1/1/93]
[Filed 1/14/93, Notice 11/11/92—published 2/3/93, effective 4/1/93]
[Filed 3/11/93, Notice 1/20/93—published 3/31/93, effective 6/1/93]
[Filed 4/15/93, Notice 3/3/93—published 5/12/93, effective 7/1/93]
[Filed emergency 5/14/93 after Notice 3/31/93—published 6/9/93, effective 6/1/93]
[Filed 5/14/93, Notice 3/31/93—published 6/9/93, effective 8/1/93]
[Filed emergency 6/11/93—published 7/7/93, effective 7/1/93]
[Filed 6/11/93, Notice 4/28/93—published 7/7/93, effective 9/1/93]
[Filed emergency 6/25/93—published 7/21/93, effective 7/1/93]
[Filed emergency 7/13/93 after Notice 5/12/93—published 8/4/93, effective 8/1/93]
[Filed without Notice 8/12/93—published 9/1/93, effective 11/1/93]
[Filed 8/12/93, Notices 4/28/93, 7/7/93—published 9/1/93, effective 11/1/93]
[Filed 9/17/93, Notice 7/21/93—published 10/13/93, effective 12/1/93]
[Filed 10/14/93, Notice 8/18/93—published 11/10/93, effective 1/1/94]
[Filed 11/12/93, Notice 9/29/93—published 12/8/93, effective 2/1/94]
[Filed 12/16/93, Notice 9/1/93—published 1/5/94, effective 3/1/94]
[Filed 1/12/94, Notice 11/10/93—published 2/2/94, effective 4/1/94]
[Filed 3/10/94, Notices 1/19/94, 2/2/94◊—published 3/30/94, effective 6/1/94]
[Filed emergency 6/16/94—published 7/6/94, effective 7/1/94]
[Filed 9/15/94, Notice 7/6/94—published 10/12/94, effective 12/1/94]
[Filed 11/9/94, Notice 9/14/94—published 12/7/94, effective 2/1/95]
[Filed 12/15/94, Notices 10/12/94, 11/9/94—published 1/4/95, effective 3/1/95]
[Filed 3/20/95, Notice 2/1/95—published 4/12/95, effective 6/1/95]
[Filed 5/11/95, Notice 3/29/95—published 6/7/95, effective 8/1/95]
[Filed emergency 6/7/95—published 7/5/95, effective 7/1/95]
[Filed 8/10/95, Notice 7/5/95—published 8/30/95, effective 11/1/95]
[Filed 11/16/95, Notices 8/2/95, 9/27/95◊—published 12/6/95, effective 2/1/96]
[Filed 5/15/96, Notice 2/14/96—published 6/5/96, effective 8/1/96]
[Filed emergency 6/13/96—published 7/3/96, effective 7/1/96]
[Filed 7/10/96, Notice 6/5/96—published 7/31/96, effective 10/1/96]

****Effective date of 3/1/92 delayed until adjournment of the 1992 General Assembly by the Administrative Rules Review Committee at its meeting held February 3, 1992.

◊ Two ARCs

[Filed 8/15/96, Notice 7/3/96—published 9/11/96, effective 11/1/96]
[Filed 9/17/96, Notice 7/31/96—published 10/9/96, effective 12/1/96]
[Filed 11/13/96, Notice 9/11/96—published 12/4/96, effective 2/1/97]
[Filed 2/12/97, Notice 12/18/96—published 3/12/97, effective 5/1/97]
[Filed 3/12/97, Notices 1/1/97, 1/29/97—published 4/9/97, effective 6/1/97]
[Filed 4/11/97, Notice 2/12/97—published 5/7/97, effective 7/1/97]
[Filed emergency 5/14/97 after Notice 3/12/97—published 6/4/97, effective 7/1/97]
[Filed emergency 6/12/97—published 7/2/97, effective 7/1/97]
[Filed 6/12/97, Notice 4/23/97—published 7/2/97, effective 9/1/97]
[Filed 9/16/97, Notice 7/2/97—published 10/8/97, effective 12/1/97]
[Filed emergency 11/12/97—published 12/3/97, effective 11/12/97]
[Filed 11/12/97, Notice 9/10/97—published 12/3/97, effective 2/1/98]
[Filed 1/14/98, Notices 11/19/97, 12/3/97—published 2/11/98, effective 4/1/98]
[Filed 3/11/98, Notice 1/14/98—published 4/8/98, effective 6/1/98]
[Filed 4/8/98, Notice 2/11/98—published 5/6/98, effective 7/1/98]
[Filed emergency 6/10/98—published 7/1/98, effective 7/1/98]
[Filed 8/12/98, Notice 7/1/98—published 9/9/98, effective 11/1/98]
[Filed 9/15/98, Notice 7/15/98—published 10/7/98, effective 12/1/98]
[Filed 11/10/98, Notice 9/23/98—published 12/2/98, effective 2/1/99]
[Filed 1/13/99, Notice 11/4/98—published 2/10/99, effective 4/1/99]
[Filed 2/10/99, Notice 12/16/98—published 3/10/99, effective 5/1/99]
[Filed 4/15/99, Notice 2/10/99—published 5/5/99, effective 7/1/99]
[Filed emergency 6/10/99—published 6/30/99, effective 7/1/99]
[Filed 6/10/99, Notice 5/5/99—published 6/30/99, effective 9/1/99]

*e.* Effective January 1, 1999, the basis for establishing the maximum reimbursement rate for non-state-owned nursing facilities shall be the seventieth percentile of participating facilities' per diem rates as calculated from the December 31, 1998, report of "unaudited compilation of various costs and statistical data."

Beginning July 1, 1999, the basis for establishing the maximum reimbursement rate for non-state-owned nursing facilities shall be the seventieth percentile of participating facilities' per diem rates as calculated from the June 30, 1999, report of "unaudited compilation of various costs and statistical data" submitted by each facility on medical assistance cost reports. A facility which does not have a current cost report on file with the department as of June 30, 1999, shall continue to receive the per diem rate in effect for that facility on June 30, 1999, until the facility's costs are above that rate or until June 30, 2000, whichever is earlier.

*f.* The per diem rate paid for skilled nursing care provided by a nursing facility certified under the Medicare program shall be established according to guidelines in 441—subrule 79.1(9).

*g.* Facilities, both hospital-based distinct units and freestanding, which have beds certified as Medicare-skilled beds may participate in both the skilled care program and the nursing facility program. These facilities shall submit Form 470-0030. The facility's costs shall be used to calculate the maximum nursing facility rate.

**81.6(17)** *Cost report documentation.* Beginning July 1, 1999, all nursing facilities shall submit semiannual cost reports based on the closing date of the facility's fiscal year and the midpoint of the facility's fiscal year, that incorporate additional documentation as set forth below. Initially, the additional documentation shall provide baseline information by describing the status of the facility with reference to the information requested as of July 1, 1999, and subsequently the additional documentation shall describe the status of the facility for the period of the cost report. The additional documentation to be incorporated in the cost reports shall include all of the following information:

*a.* Information on staffing costs, including the number of hours of the following provided per resident per day by all the following: nursing services provided by registered nurses, licensed practical nurses, certified nurse aides, restorative aides, certified medication aides, and contracted nursing services; other care services; administrative functions; housekeeping and maintenance; and dietary services.

*b.* The starting and average hourly wage for each class of employees for the period of the report.

This rule is intended to implement Iowa Code sections 249A.2(6), 249A.3(2)*"a,"* 249A.4, and 249A.16.

**441—81.7(249A) Continued review.** The Iowa Foundation for Medical Care shall review Medicaid recipients' need of continued care in nursing facilities, pursuant to the standards and subject to the reconsideration and appeals processes in subrule 81.3(1).

This rule is intended to implement Iowa Code sections 249A.2(6) and 249A.3(2)*"a."*

**441—81.8(249A) Quality of care review.** Rescinded IAB 8/8/90, effective 10/1/90.

**441—81.9(249A) Records.**

**81.9(1)** *Content.* The facility shall as a minimum maintain the following records:

*a.* All records required by the department of public health and the department of inspections and appeals.

*b.* Records of all treatments, drugs, and services for which vendors' payments have been made or are to be made under the medical assistance program, including the authority for and the date of administration of the treatment, drugs, or services.

*c.* Documentation in each resident's records which will enable the department to verify that each charge is due and proper prior to payment.

*d.* Financial records maintained in the standard, specified form including the facility's most recent audited cost report.

*e.* All other records as may be found necessary by the department in determining compliance with any federal or state law or rule or regulation promulgated by the United States Department of Health and Human Services or by the department.

*f.* Census records to include the date, number of residents at the beginning of each day, names of residents admitted, and names of residents discharged.

(1) Census information shall be provided for all residents of the facility.

(2) Census figures for each type of care shall be totaled monthly to indicate the number admitted, the number discharged, and the number of patient days.

(3) Failure to maintain acceptable census records shall result in the per diem rate being computed on the basis of 100 percent occupancy and a request for refunds covering indicated recipients of nursing care which have not been properly accounted for.

*g.* Resident accounts.

*h.* In-service education program records.

*i.* Inspection reports pertaining to conformity with federal, state and local laws.

*j.* Residents' personal records.

*k.* Residents' medical records.

*l.* Disaster preparedness reports.

**81.9(2)** *Retention.* Records identified in subrule 81.9(1) shall be retained in the facility for a minimum of five years or until an audit is performed on those records, whichever is longer.

**81.9(3)** *Change of owner.* All records shall be retained within the facility upon change of ownership.

This rule is intended to implement Iowa Code sections 249A.2(6) and 249A.3(2)*"a."*

**441—81.10(249A) Payment procedures.**

**81.10(1)** *Method of payment.* Facilities shall be reimbursed under a cost-related vendor payment program. A per diem rate shall be established based on information submitted according to rule 441—81.6(249A) or 441—subrule 79.1(9). The per diem rate shall be no greater than the maximum reasonable cost determined by the department.

**81.10(2)** *Authorization of payment.* The department shall authorize payment for care in a facility. The authorization shall be obtained prior to admission of the resident, whenever possible.

**81.10(3)** Rescinded IAB 8/9/89, effective 10/1/89.

[Filed 7/13/90, Notices 3/7/90, 5/30/90—published 8/8/90, effective 10/1/90*]
[Filed 8/16/90, Notice 6/27/90—published 9/5/90, effective 11/1/90]
[Filed 9/28/90, Notices 7/11/90, 8/8/90—published 10/17/90, effective 12/1/90**]
[Filed emergency 11/14/90—published 12/12/90, effective 12/1/90]
[Filed emergency 2/22/91—published 3/20/91, effective 3/1/91]
[Filed emergency 6/14/91—published 7/10/91, effective 7/1/91]
[Filed 6/14/91, Notices 3/20/91, 5/1/91—published 7/10/91, effective 9/1/91]
[Filed 7/10/91, Notice 5/29/91—published 8/7/91, effective 10/1/91]
[Filed 9/18/91, Notices 7/10/91, 7/24/91—published 10/16/91, effective 12/1/91]
[Filed 10/10/91, Notice 8/21/91—published 10/30/91, effective 1/1/92]
[Filed 2/13/92, Notice 1/8/92—published 3/4/92, effective 4/8/92]
[Filed without Notice 5/14/92—published 6/10/92, effective 7/15/92***]
[Filed emergency 6/12/92—published 7/8/92, effective 7/1/92]
[Filed 8/14/92, Notice 7/8/92—published 9/2/92, effective 11/1/92]
[Filed 11/10/92, Notice 9/30/92—published 12/9/92, effective 2/1/93]
[Filed 1/14/93, Notice 12/9/92—published 2/3/93, effective 4/1/93]
[Filed 3/11/93, Notice 1/20/93—published 3/31/93, effective 6/1/93†]
[Filed emergency 6/11/93—published 7/7/93, effective 7/1/93]
[Filed 8/12/93, Notice 7/7/93—published 9/1/93, effective 11/1/93]
[Filed emergency 6/16/94—published 7/6/94, effective 7/1/94]
[Filed 9/15/94, Notice 7/6/94—published 10/12/94, effective 12/1/94]
[Filed emergency 4/12/95—published 5/10/95, effective 4/12/95]
[Filed 4/13/95, Notice 3/1/95—published 5/10/95, effective 7/1/95]
[Filed emergency 6/7/95—published 7/5/95, effective 7/1/95]
[Filed 8/10/95, Notice 7/5/95—published 8/30/95, effective 11/1/95]
[Filed 11/16/95, Notice 9/27/95—published 12/6/95, effective 2/1/96]
[Filed emergency 6/13/96—published 7/3/96, effective 7/1/96]
[Filed 8/15/96, Notice 7/3/96—published 9/11/96, effective 11/1/96]
[Filed 4/11/97, Notice 2/12/97—published 5/7/97, effective 7/1/97]
[Filed emergency 6/12/97—published 7/2/97, effective 7/1/97]
[Filed 9/16/97, Notice 7/2/97—published 10/8/97, effective 12/1/97]
[Filed emergency 5/13/98—published 6/3/98, effective 6/22/98]
[Filed emergency 6/10/98—published 7/1/98, effective 7/1/98]
[Filed 7/15/98, Notice 6/3/98—published 8/12/98, effective 10/1/98]
[Filed emergency 8/12/98—published 9/9/98, effective 8/12/98]
[Filed 8/12/98, Notice 7/1/98—published 9/9/98, effective 11/1/98]
[Filed 9/15/98, Notice 7/29/98—published 10/7/98, effective 12/1/98]
[Filed 10/14/98, Notice 9/9/98—published 11/4/98, effective 1/1/99]
[Filed 11/10/98, Notice 8/26/98—published 12/2/98, effective 2/1/99]
[Filed emergency 6/10/99—published 6/30/99, effective 7/1/99]

*Effective date of 81.16(4) delayed 30 days by the Administrative Rules Review Committee at its September 12, 1990, meeting; at the October 9, 1990, meeting the delay was extended to 70 days. Amendment effective 12/1/90 superseded the 70-day delay.

**Effective date of 81.10(5) delayed until adjournment of the 1991 session of the General Assembly by the Administrative Rules Review Committee at its November 13, 1990, meeting.

***Effective date of 81.13(7)"c"(1) delayed 70 days by the Administrative Rules Review Committee at its meeting held July 14, 1992; delay lifted by the Committee at its meeting held August 11, 1992, effective August 12, 1992.

†Effective date of 81.6(3), first unnumbered paragraph, delayed 70 days by the Administrative Rules Review Committee at its meeting held April 5, 1993.

# CHAPTER 83
# MEDICAID WAIVER SERVICES
## PREAMBLE

Medicaid waiver services are services provided to maintain persons in their own homes or communities who would otherwise require care in medical institutions. Provision of these services must be cost-effective. Services are limited to certain targeted client groups for whom a federal waiver has been requested and approved. Services provided through the waivers are not available to other Medicaid recipients as the services are beyond the scope of the Medicaid state plan.

## DIVISION I—HCBS ILL AND HANDICAPPED WAIVER SERVICES

**441—83.1(249A) Definitions.**

*"Blind individual"* means an individual who has a central visual acuity of 20/200 or less in the better eye with the use of corrective lens or visual field restriction to 20 degrees or less.

*"Client participation"* means the amount of the recipient income that the person must contribute to the cost of ill and handicapped waiver services exclusive of medical vendor payments before Medicaid will participate.

*"Deeming"* means the specified amount of parental or spousal income and resources considered in determining eligibility for a child or spouse according to current supplemental security income guidelines.

*"Disabled person"* means an individual who is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which has lasted or is expected to last for a continuous period of not less than 12 months. A child under the age of 18 is considered disabled if the child suffers a medically determinable physical or mental impairment of comparable severity.

*"Financial participation"* means client participation and medical payments from a third party including veterans' aid and attendance.

*"Intermittent homemaker service"* means homemaker service provided from one to three hours a day for not more than four days per week.

*"Intermittent respite service"* means respite service provided from one to three times a week.

*"Medical institution"* means a nursing facility or an intermediate care facility for the mentally retarded which has been approved as a Medicaid vendor.

*"Substantial gainful activity"* means productive activities which add to the economic wealth, or produce goods or services to which the public attaches a monetary value.

*"Third-party payments"* means payments from an attorney, individual, institution, corporation, or public or private agency which is liable to pay part or all of the medical costs incurred as a result of injury, disease or disability by or on behalf of an applicant or a past or present recipient of medical assistance.

**441—83.2(249A) Eligibility.** To be eligible for ill and handicapped waiver services a person must meet certain eligibility criteria and be determined to need a service(s) allowable under the program.

**83.2(1)** *Eligibility criteria.*

*a.* The person must be determined to be one of the following:

(1) Blind or disabled as determined by the receipt of social security disability benefits, or a disability determination made through the division of medical services. Disability determinations are made according to supplemental security income guidelines as per Title XVI of the Social Security Act.

(2) Aged 65 or over and residing in a county that is not served by the HCBS elderly waiver.

*b.* The person must be ineligible for medical assistance under other Medicaid programs or coverage groups with the exception of: the medically needy program, the in-home, health-related program when the person chooses the ill and handicapped waiver instead of the in-home, health-related program, the HCBS MR waiver when the person is a child under the age of 18 with mental retardation and meets the skilled nursing level of care, cases approved by the intradepartmental board for supplemental security income deeming determinations between 1982 and 1987, and children eligible for supplemental security income under Section 8010 of Public Law 101-239.

*c.* Persons shall meet the eligibility requirements of the supplemental security income program except for the following:

(1) The person is under 18 years of age, unmarried and not the head of a household and is ineligible for supplemental security income because of the deeming of the parent's(s') income.

(2) The person is married and is ineligible for supplemental security income because of the deeming of the spouse's income or resources.

(3) The person is ineligible for supplemental security income due to excess income and the person's income does not exceed 300 percent of the maximum monthly payment for one person under supplemental security income.

(4) The person is under 18 years of age and is ineligible for supplemental security income because of excess resources.

*d.* The person must be certified as being in need of nursing facility or skilled nursing facility level of care or as being in need of care in an intermediate care facility for the mentally retarded. The Iowa Foundation for Medical Care shall be responsible for approval of the certification of the level of care.

Ill and handicapped waiver services will not be provided when the individual is an inpatient in a medical institution.

*e.* Rescinded IAB 12/6/95, effective 2/1/96.

*f.* The person must meet income and resource guidelines for Medicaid as if in a medical institution pursuant to 441—Chapter 75. When a husband and wife who are living together both apply for the waiver, income and resource guidelines as specified at paragraphs 441—75.5(2)*"b"* and 441—75.5(4)*"c"* shall be applied.

*g.* The person must have service needs that can be met by this waiver program. At a minimum a person must receive a unit of adult day care, consumer-directed attendant care, counseling, home health aid, homemaker, nursing, or respite service per quarter.

**83.2(2)** *Need for services.*

*a.* The consumer shall have a service plan approved by the department which is developed by the county social worker as identified by the county of residence. This service plan must be completed prior to services provision and annually thereafter.

The social worker shall establish the interdisciplinary team for the consumer and, with the team, identify the consumer's need for service based on the consumer's needs and desires as well as the availability and appropriateness of services using the following criteria:

(1) This service plan shall be based, in part, on information in the completed Home- and Community-Based Services Assessment or Reassessment, Form 470-0659. Form 470-0659 is completed annually, or more frequently upon request or when there are changes in the client's condition.

(2) Service plans for persons aged 20 or under shall be developed or reviewed after the child's individual education plan and EPSDT plan, if applicable, are developed so as not to replace or duplicate services covered by those plans.

*a.* If a timely request for reconsideration of an initial denial determination is made, IFMC shall complete the reconsideration determination and send written notice including appeal rights to the Medicaid applicant or recipient and the applicant's or recipient's representative within ten working days after IFMC receives the request for reconsideration and a copy of the medical record.

*b.* If a copy of the medical record is not submitted with the reconsideration request, IFMC will request a copy from the facility within two working days.

*c.* The notice to parties. Written notice of the IFMC reconsidered determination will contain the following:

(1) The basis for the reconsidered determination.

(2) A detailed rationale for the reconsidered determination.

(3) A statement explaining the Medicaid payment consequences of the reconsidered determination.

(4) A statement informing the parties of their appeal rights, including the information that must be included in the request for hearing, the locations for submitting a request for an administrative hearing, and the time period for filing a request.

*d.* If the request for reconsideration is mailed or delivered to IFMC within ten days of the date of the initial determination, any medical assistance payments previously approved will not be terminated until the decision on reconsideration. If the initial decision is upheld on reconsideration, medical assistance benefits continued pursuant to this rule will be treated as an overpayment to be paid back to the department.

**441—83.110(249A) County reimbursement.** The consumer's county of legal settlement must agree to reimburse the department for all of the nonfederal share of the cost of physical disability waiver services to persons at the ICF/MR level of care with legal settlement in the county if the county chooses to participate in the physical disability waiver. The county shall enter into a Medicaid Home- and Community-Based Payment Agreement, Form 470-0379, with the department for reimbursement of the nonfederal share of the cost of services provided to HCBS physical disability waiver adults at the ICF/MR level of care.

The county shall enter into the agreement using the criteria in subrule 83.102(2).

**441—83.111(249A) Conversion to the X-PERT system.** For conversion to the X-PERT system at a time other than review, the consumer may be required to provide additional information. To obtain this information, a consumer may be required to have an interview. Failure to respond for this interview when so requested, or failure to provide requested information, shall result in cancellation.

These rules are intended to implement Iowa Code sections 249A.3 and 249A.4.

[Filed emergency 8/31/84—published 9/26/84, effective 10/1/84]
[Filed 1/22/86, Notice 12/4/85—published 2/12/86, effective 4/1/86]
[Filed emergency 1/15/87—published 2/11/87, effective 1/15/87]
[Filed emergency 5/13/88 after Notice 3/23/88—published 6/1/88, effective 6/1/88]
[Filed 7/14/89, Notice 4/19/89—published 8/9/89, effective 10/1/89]
[Filed 3/16/90, Notice 2/7/90—published 4/4/90, effective 6/1/90]
[Filed 4/13/90, Notice 11/29/89—published 5/2/90, effective 8/1/90]
[Filed emergency 6/13/90—published 7/11/90, effective 6/14/90]
[Filed 10/12/90, Notice 8/8/90—published 10/31/90, effective 2/1/91]
[Filed 1/17/91, Notices 11/14/90, 11/28/90—published 2/6/91, effective 4/1/91]
[Filed emergency 5/17/91 after Notice of 4/3/91—published 6/12/91, effective 7/1/91]
[Filed 10/10/91, Notice 9/4/91—published 10/30/91, effective 1/1/92]
[Filed emergency 1/16/92, Notice 11/27/91—published 2/5/92, effective 3/1/92]
[Filed 2/13/92, Notice 1/8/92—published 3/4/92, effective 5/1/92]
[Filed emergency 6/12/92—published 7/8/92, effective 7/1/92]
[Filed 7/17/92, Notice 5/13/92—published 8/5/92, effective 10/1/92]
[Filed 8/14/92, Notice 7/8/92—published 9/2/92, effective 11/1/92]
[Filed 9/11/92, Notice 7/8/92—published 9/30/92, effective 12/1/92]
[Filed emergency 7/13/93 after Notice 5/12/93—published 8/4/93, effective 8/1/93]
[Filed 8/12/93, Notice 4/28/93—published 9/1/93 effective 11/1/93]
[Filed 10/14/93, Notice 8/18/93—published 11/10/93, effective 1/1/94]
[Filed emergency 12/16/93 after Notice 10/27/93—published 1/5/94, effective 1/1/94]
[Filed emergency 2/10/94 after Notice 1/5/94—published 3/2/94, effective 3/1/94]
[Filed emergency 7/15/94 after Notice 6/8/94—published 8/3/94, effective 8/1/94]
[Filed 11/9/94, Notice 9/14/94—published 12/7/94, effective 2/1/95]
[Filed 12/15/94, Notice 11/9/94—published 1/4/95, effective 3/1/95]
[Filed 2/16/95, Notice 11/23/94—published 3/15/95, effective 5/1/95]
[Filed 5/11/95, Notice 3/29/95—published 6/7/95, effective 8/1/95]
[Filed emergency 6/7/95—published 7/5/95, effective 7/1/95]
[Filed 8/10/95, Notice 7/5/95—published 8/30/95, effective 11/1/95]
[Filed 11/16/95, Notices 8/2/95, 9/13/95, 9/27/95—published 12/6/95, effective 2/1/96]
[Filed 5/15/96, Notice 2/14/96—published 6/5/96, effective 8/1/96]
[Filed 6/13/96, Notice 4/24/96—published 7/3/96, effective 9/1/96]
[Filed 7/10/96, Notice 4/24/96—published 7/31/96, effective 10/1/96]
[Filed 8/15/96, Notice 6/19/96—published 9/11/96, effective 11/1/96]
[Filed emergency 10/9/96 after Notice 8/14/96—published 11/6/96, effective 11/1/96]
[Filed 1/15/97, Notice 11/20/96—published 2/12/97, effective 4/1/97]
[Filed 3/12/97, Notices 1/1/97, 1/29/97—published 4/9/97, effective 6/1/97]
[Filed emergency 5/14/97 after Notice 3/12/97—published 6/4/97, effective 7/1/97]
[Filed 6/12/97, Notice 4/23/97—published 7/2/97, effective 10/1/97]
[Filed 11/12/97, Notice 9/10/97—published 12/3/97, effective 2/1/98]
[Filed 12/10/97, Notice 11/5/97—published 12/31/97, effective 4/1/98]
[Filed 4/8/98, Notice 2/11/98—published 5/6/98, effective 7/1/98]
[Filed emergency 6/10/98—published 7/1/98, effective 7/1/98]
[Filed 6/10/98, Notice 5/6/98—published 7/1/98, effective 10/1/98]
[Filed 8/12/98, Notices 6/17/98, 7/1/98—published 9/9/98, effective 11/1/98]
[Filed 12/9/98, Notice 10/7/98—published 12/30/98, effective 4/1/99]
[Filed 1/13/99, Notice 11/4/98—published 2/10/99, effective 4/1/99]
[Filed 2/10/99, Notice 12/16/98—published 3/10/99, effective 5/1/99]
[Filed emergency 6/10/99—published 6/30/99, effective 7/1/99]

**441—93.106(239B) Orientation for PROMISE JOBS and the FIA.** Every FIP participant who schedules and keeps an orientation appointment as described at 93.105(2) shall receive orientation services.

**93.106(1)** *Requirements of orientation.* During orientation, each participant shall receive a full explanation of the advantages of employment under the family investment program (FIP), services available under PROMISE JOBS, a review of participant rights and responsibilities under the FIA and PROMISE JOBS, a review of the LBP as described at 441—subrule 41.24(8), an explanation of the benefits of cooperation with the child support recovery unit, and an explanation of the other programs available through PROMISE, specifically the transitional Medicaid and child care assistance programs.

*a.* Each participant shall sign Form WI-3305, Your Rights and Responsibilities, acknowledging that information described above has been provided.

*b.* Participants are required to complete a current workforce development registration, Form 60-0330, Application for Job Placement and/or Job Insurance, when requested by PROMISE JOBS staff.

*c.* Orientation may also include completing self-assessment instruments.

*d.* The PROMISE JOBS worker shall meet with each participant, or family if appropriate when two parents or children who are mandatory PROMISE JOBS participants are involved, to determine readiness to participate, establish expenses and a payment schedule and to discuss child care needs.

**93.106(2)** *Beginning PROMISE JOBS participation.* An individual becomes a PROMISE JOBS participant when that person attends the first day of the assessment component, as described at rule 441—93.111(239B), or provides the substitute assessment information as described at 93.111(1)*"a"*(4).

**441—93.107(239B) Medical examinations.** A person shall secure and provide written documentation signed by a licensed health practitioner, licensed in Iowa or adjoining states, to verify a claimed illness or disability within 45 days of a written request by staff.

**441—93.108(239B) Self-initiated training.** Registrants who have attended one or more days of training prior to participating in a PROMISE JOBS orientation are considered to be self-initiated. For registrants who at time of call-up for PROMISE JOBS orientation are in self-initiated classroom training, including government-sponsored training programs, PROMISE JOBS staff shall determine whether the training program meets acceptable criteria as prescribed for the classroom training component at rule 441—93.114(239B).

**93.108(1)** *Nonapprovable training.* When it is determined that the self-initiated training does not meet the criteria of rule 441—93.114(239B), the registrant has the option to participate in other PROMISE JOBS options or to use the nonapprovable training to meet the obligations of the FIA, under the other education and training component, as long as the training can still be reasonably expected to result in self-sufficiency. PROMISE JOBS expense allowances are not available for persons in nonapprovable training.

**93.108(2)** *Approvable training.* When a self-initiated training program meets PROMISE JOBS program standards, including SEID and ISHIP as described at 441—subrule 48.3(4), the participant shall be enrolled in the classroom training component in order to be eligible for child care and transportation assistance. Eligibility for payment of transportation and child care allowances shall begin for that month, or part thereof, in which the training plan is approved or the participant is removed from a waiting list as described at 93.105(3), whichever is later. Self-initiated participants are not eligible for expense allowances to pay for tuition, fees, books, or supplies.

**441—93.109(239B) The family investment agreement (FIA).** Families and individuals eligible for FIP shall, through any persons referred to PROMISE JOBS, enter into and carry out the activities of the FIA. Those who choose not to enter into the FIA or who choose not to continue its activities after signing the FIA shall enter into the limited benefit plan (LBP) as described at 441—subrule 41.24(8).

**93.109(1)** *FIA-responsible persons.*

*a.* All parents who are not exempt from PROMISE JOBS shall be responsible for signing and carrying out the activities of the FIA.

*b.* In addition, any other adults or a minor nonparental caretaker relative whose needs are included in the FIP grant shall be responsible for the FIA.

*c.* Persons who volunteer for PROMISE JOBS shall be responsible for the FIA as appropriate to their status as a parent or caretaker relative or child on the case.

*d.* When the FIP-eligible group holds a minor parent living with a parent or needy caretaker relative who receives FIP, as described at 441—paragraph 41.28(2)"*b*"(2), and both are referred to PROMISE JOBS, each parent or needy caretaker relative is responsible for a separate FIA.

*e.* When the FIP-eligible group holds a parent or parents or needy caretaker relative and a child or children who are all mandatory PROMISE JOBS participants, each parent or needy caretaker relative and each child would not have a separate FIA. All would be asked to sign one FIA with the family and to carry out the activities of that FIA. Copies of the FIA would be placed in individual case files.

*f.* When the FIP-eligible group holds a parent or parents or needy caretaker relative who are exempt from PROMISE JOBS and a child or children who are mandatory PROMISE JOBS participants, each child is responsible for completing a separate FIA.

**93.109(2)** *FIA requirements.* The FIA shall be developed during the orientation and assessment process through discussion between the FIP participants and PROMISE JOBS staff of coordinating PROMISE JOBS provider agencies, using Form 470-3095, Family Investment Agreement, and Form 470-3096, FIA Steps to Achieve Self-Sufficiency.

*a.* The FIA shall require the FIA-responsible persons and family members who are referred to PROMISE JOBS to choose participation in one or more activities which are described below. The level of participation in one or more of the options shall be equivalent to the level of commitment required for full-time employment or shall be significant so as to move toward that level.

(1) The options of the FIA shall include, but are not limited to, all of the following: assessment, self-directed job search, job-seeking skills training, group and individual job search, the FIP-UP work program, high school completion activities, GED, ABE, ESL, postsecondary classroom training, work experience, PROMISE JOBS on-the-job training, unpaid community service, parenting skills training, monitored part-time or full-time employment, referral for family planning counseling, and participation in FaDSS or other family development programs.

(2) The following are additional FIA options:

1. Participants have access to all services offered by the provider agencies.

2. Persons in work and training programs below a graduate degree which are funded outside of PROMISE JOBS and are approvable by PROMISE JOBS can use those as FIA options.

3. Persons in work and training programs below a graduate degree which are funded outside of PROMISE JOBS and are not approvable by PROMISE JOBS can use those as FIA options only when the participant is active in the nonapprovable program at the time of PROMISE JOBS orientation.

4. Work toward a graduate degree can be used as an FIA option only when the participant is active in the graduate program at the time of PROMISE JOBS orientation and the undergraduate degree was not earned under PROMISE JOBS.

(3) It is expected that employment shall be the principal activity of the FIA or shall be combined with other FIA options whenever it is possible for the participant to do so as part of the plan to achieve self-sufficiency.

(4) Participants who are placed on a waiting list, as described at 93.105(3), for a PROMISE JOBS component or supportive service shall include employment in the FIA unless family circumstances indicate that employment is not appropriate.

*b.* The FIA shall reflect, to the maximum extent possible, the goals of the family, subject to program rules, funding, the capability, experience and aptitudes of family members, and the potential market for the job skills currently possessed or to be developed.

(1) The FIA shall include the long-term goals of the family for achieving self-sufficiency and shall establish a time frame, with a specific ending date, during which the FIA family expects to become self-sufficient, after which FIP benefits will be terminated.

(2) The FIA shall outline the expectations of the PROMISE JOBS program and of the family, clearly establishing interim goals necessary to reach the long-term goals and self-sufficiency.

1. It shall identify barriers to participation so that the FIA may include a plan, appropriate referrals, and supportive services necessary to eliminate the barriers.

2. It shall stipulate specific services to be provided by the PROMISE JOBS program, including the FIP-UP work program for designated parents on FIP-UP cases, child care, transportation, family development services, and other supportive services.

(3) The FIA shall record participant response to the option of referral for family planning counseling. Participants who desire to do so may include family planning counseling in the steps of the FIA. It is not acceptable for the FIA to have family planning counseling as the only step of the FIA. Policies regarding family planning and the LBP are described at rule 441— 93.118(239B).

(4) Parents aged 19 and younger shall include parenting skills training as described at rule 441—93.116(239B) in the FIA.

(5) Unmarried parents aged 17 and younger who do not live with a parent or legal guardian, with good cause as described at 441—subrule 41.22(16), shall include FaDSS, as described at 441—Chapter 165, or other family development services, as described at rule 441—93.119(239B), in the FIA. The FaDSS or other family development services shall continue after the parent is aged 18 only when the participant and the family development worker believe that the services are needed for the family to reach self-sufficiency.

*c.* The FIA may incorporate a self-sufficiency plan which the family has developed with another agency or person, such as, but not limited to, Head Start, public housing authorities, child welfare workers, and FaDSS grantees, so long as that self-sufficiency plan meets the requirements of these rules and is deemed by PROMISE JOBS staff to be appropriate to the family circumstances. Participants shall authorize PROMISE JOBS to obtain the self-sufficiency plan and to arrange coordination with the manager of the self-sufficiency plan by signing Form MH-2201-0, Consent to Release or Obtain Information.

*d.* The FIA shall contain a provision for extension of the time frames and amendment of the FIA if funding for PROMISE JOBS components included in the FIA or required supportive services is not available.

*e.* The FIA shall be signed by the FIA-responsible person or persons and other family members who are referred to PROMISE JOBS, the PROMISE JOBS worker, and the project supervisor, before the FIA is considered to be completed.

*f.* If the FIA-responsible person demonstrates effort and is carrying out the steps of the FIA but is unable to achieve self-sufficiency within the time frame specified in the FIA, the FIA shall be renegotiated, the time frame shall be extended and the FIA shall be amended to describe the new plan for self-sufficiency.

*g.* Participants who choose not to cooperate in the renegotiation process shall be considered to have chosen the LBP.

*h.* Responsibility for carrying out the steps of the FIA ends at the point that FIP assistance is not provided to the participant.

*i.* When a participant who has signed an FIA loses FIP eligibility and the period the participant is without FIP assistance is one month or less and the participant has not become exempt from PROMISE JOBS at the time of FIP reapplication, the contents of the FIA and the participant's responsibility for carrying out the steps of that FIA shall be reinstated when FIP eligibility is reestablished.

The reinstated FIA shall be renegotiated and amended only if needed to accommodate changed family circumstances. Participants shall receive Form 470-3300, Your Family Investment Agreement Reminder, to remind them of their FIA obligation and to offer the opportunity to renegotiate and amend the reinstated FIA.

**441—93.110(239B) Arranging for services.** Staff is responsible for providing or helping the participant to arrange for employment-oriented services, as required, to facilitate the registrants' successful participation, including client assessment or case management, employment education, transportation, child care, referral for medical examination, and supportive services under the family development and self-sufficiency program described in 441—Chapter 165 or other family development programs, described in rule 441—93.119(239B). PROMISE JOBS funds shall be used to pay costs of obtaining a birth certificate when the birth certificate is needed in order for the registrant to complete the employment service registration process described in rule 441—93.106(239B). PROMISE JOBS funds may also be used to pay expenses for clients enrolled in JTPA-funded components when those expenses are allowable under these rules. Clients shall submit Form 470-0510, Estimate of Cost, to initiate allowances or change the amount of payment for expenses other than child care. Clients shall submit Form 470-2959, Child Care Certificate, to initiate child care payments or change the amount of child care payments. The caretaker, the provider and the worker shall sign Form 470-2959 before the provider is paid.

Payment for child care, if required for participation in any PROMISE JOBS component other than orientation, not specifically prohibited elsewhere in these rules, and not available from any other source, shall be provided for participants after service has been received as described at 441—Chapter 170.

**93.110(1)** to **93.110(5)** Rescinded IAB 6/30/99, effective 7/1/99.

**93.110(6)** Transportation allowances. Participants may receive a transportation allowance for each day of participation, if transportation is required for participation in a PROMISE JOBS activity, but shall not receive a transportation allowance for orientation or for assessment activities which occur on the same day as orientation or for employment. The transportation allowance shall be paid monthly at the start of each month of participation or when participation begins, whichever is earlier. Persons employed shall be entitled to the work expense deduction described at 441—paragraphs 41.27(2)*"a"* and *"d."*

Transportation allowances shall be developed individually according to the circumstances of each participant. Allowances shall cover transportation for the participant and child, if necessary, from the participant's home to the child care provider, if necessary, and to the PROMISE JOBS site or activity.

*a.* For those who use public transportation, the allowance shall be based on the normally scheduled days of participation in the PROMISE JOBS activity for the period covered by the payment, using the rate schedules of the local transit authority to the greatest advantage, including use of weekly and monthly passes or other rate reduction opportunities.

*b.* For participants who use a motor vehicle they operate themselves or who hire private transportation, the transportation allowance shall be based on a formula which uses the normally scheduled days of participation in the PROMISE JOBS activity for the period covered by the allowance times the participant's anticipated daily round-trip miles times the mileage rate of $.16 per mile.

*c.* Transportation allowances for the assessment component shall be issued in advance in weekly increments as described in 93.110(6)*"a"* or 93.110(6)*"b,"* with payments for the second or third week of assessment being issued as soon as it is determined that the participant will be required to participate in the second or third week of the component.

*d.* Monthly transportation allowances for each full calendar month of participation shall be issued in advance in the amount determined by the formula described in 93.110(6)*"a"* or 93.110(6)*"b."*

(1) Allowances for the third and subsequent months of an ongoing activity shall not be authorized prior to receipt of time and attendance verification, as described at subrule 93.135(2), for the month previous to the issuance month. (For example, a transportation allowance for December, normally issued after November 15 to be available to the participant by December 1, will not be authorized until time and attendance verification for the month of October has been received in the PROMISE JOBS office.)

(2) The amounts of allowances for the third and subsequent months of an ongoing activity shall be adjusted by subtracting from normally scheduled days any number of days which represent a difference between the number of normally scheduled days in the month previous to the issuance month and the number of actual days attended in the month previous to the issuance month. (For example, a transportation allowance based on 16 normally scheduled days of participation is authorized for October, issued in September. If ten days of participation are normally scheduled in December, and the participant did not attend two days of the PROMISE JOBS activity in October, the December transportation allowance, issued in November for December, shall be calculated using eight days.) Because this adjustment is not possible in the last two months of an ongoing activity, transportation allowances for the last two months of an ongoing activity shall be subject to transportation overpayment provisions of 93.110(8)*"b."*

*e.* Persons who require, due to a mental or physical disability, a mode of transportation other than a vehicle they operate themselves shall be eligible for payment of a supplemental transportation allowance when documented actual transportation costs are greater than transportation allowances provided under these rules and transportation is not available from a nonreimbursable source. Costs of transportation by a public or private agency shall be allowed for the actual costs. Costs of transportation provided by private automobile shall be allowed for the actual charge up to a maximum of the rate per mile as described in 93.110(6)*"b."*

(1) Medical evidence of disability or incapacity may be obtained from either an independent physician or psychologist or the state rehabilitation agency in the same manner specified in 441—paragraph 41.21(5)*"c."*

(2) The client's need for a mode of transportation other than a vehicle operated by the client due to disability or incapacity shall be verified by either an independent physician or psychologist or the state rehabilitation agency.

*f.* In those instances where a PROMISE JOBS participant is enrolled in high school, a transportation allowance shall not be allowed if transportation is available from a nonreimbursable source such as when transportation is provided by the school district, or the school district has deemed it unnecessary due to the proximity of the participant's home to the school. If child care needs make it impossible for the participant to use transportation provided by the school district, a transportation allowance shall be authorized.

**93.110(7)** Expense allowances during a month of FIP suspension. Payment for expenses shall be made for a month of FIP suspension if the client chooses to participate during that month in a PROMISE JOBS component or other FIA activity for which expense allowance payment is allowable under these rules and to which the client has been previously assigned.

**93.110(8)** Transportation overpayment. Payment for transportation shall be considered an overpayment subject to recovery in accordance with rule 441—93.151(239B) in the following instances:

*a.* When the participant attends none of the scheduled days of participation in a PROMISE JOBS activity, the entire transportation allowance shall be considered an overpayment. Recovery of the overpayment shall be initiated when it becomes clear that subsequent participation in the activity is not possible for reasons such as, but not limited to, family investment program ineligibility, establishment of a limited benefit plan or exemption from PROMISE JOBS participation requirements.

*b.* When the participant fails to attend 75 percent of the normally scheduled days of participation in either of the last two months of an ongoing PROMISE JOBS activity or in any transportation allowance period of an activity which has not been used for allowance adjustment as described at 93.110(6)*"d,"* an overpayment is considered to have occurred. The amount to recover shall be the difference between the amount for the actual number of days attended and the amount for 75 percent of normally scheduled days. However, a transportation allowance overpayment does not occur for any month in which the participant leaves the PROMISE JOBS activity in order to enter employment.

**93.112(2)** *Individual job search.* The individual job search component shall be available to participants for whom job club is not appropriate or not available, such as, but not limited to, participants who have completed training or have recent ties with the work force. The total period for each episode of individual job search shall not exceed 12 weeks or three calendar months.

*a.* The participant shall, in consultation with PROMISE JOBS staff, design and provide a written plan of the individual job search activities. The plan shall contain a designated period of time, not to exceed four weeks or a calendar month, and the specific locations of the job search. It shall also contain, but not be limited to, information as specific as possible pertaining to, for example, areas of employment interest and employers to be contacted.

*b.* Participants who choose individual job search shall receive a child care allowance, if required, and an allowance as described at 93.110(6) to cover costs of transportation, if required.

(1) Payment for required child care shall be limited to 20 hours per week.

(2) The transportation allowance shall be paid in full at the start of each designated time period of the individual job search. The anticipated days for job search shall be included in the written plan so as to provide the most effective use of transportation funds. Transportation allowances for any missed days of job search activity shall be subject to transportation overpayment policies as described at 93.110(8).

*c.* Participants who do not complete the steps of the written plan of the individual job search have chosen the limited benefit plan. Policies at 441—93.132(239B), numbered paragraph "7," rules 441—93.133(239B) and 441—93.134(239B), and subrule 93.138(3) apply.

**93.112(3)** *Self-directed job search.* PROMISE JOBS participants who indicate, during assessment I, a desire to complete a short-term FIA or who have achieved an FIA interim goal which should lead to employment shall be provided the option of first engaging in self-directed job search activities before beginning other FIA options. This option does not apply to parents under the age of 20 who are required to participate in high school completion activities and FIP-UP designated parents who are aged 20 and over.

*a.* The participant shall, in consultation with PROMISE JOBS staff, design and provide a written plan of job search activities. The plan shall contain a designated period of time, not to exceed four weeks or a calendar month, and the specific locations of the job search. It shall also contain, but not be limited to, information as specific as possible pertaining to, for example, areas of employment interest and employers to be contacted.

*b.* The participant shall not be required to provide documentation of the job search activities.

*c.* Transportation and child care allowances are not available for this job search option.

**441—93.113(239B) Monitored employment.** Employment leading to self-sufficiency is the goal of the FIA. Full-time employment or part-time employment is an option under the FIA. Employment shall be the primary activity of the FIA whenever compatible with the self-sufficiency goal. Employment leading to better employment shall be an acceptable option under the FIA. Anticipated and actual hours of employment shall be verified by the participant, when not available from any other source, and documented in the case file. Transportation allowances are not paid through PROMISE JOBS but are covered by FIP earned income deductions. Required child care payments shall be allowed.

**93.113(1)** *Full-time employment.* Persons who become employed 30 or more hours per week (129 hours per month) while participating in PROMISE JOBS shall meet the obligations of the FIA by continuing in that employment if FIP eligibility continues and the end date of the FIA has not been reached. Persons who have not achieved self-sufficiency through full-time employment before the end date of the FIA may have the FIA extended. Persons who choose not to enter into the renegotiation process to extend the FIA shall be considered to have chosen the LBP.

**93.113(2)** *Part-time employment.* Persons who are employed less than 30 hours per week (129 hours per month) shall meet the obligations of the FIA by continuing employment at that level as long as that employment is part of the FIA. For some participants, this may be the only activity described in the self-sufficiency plan of the FIA. For other participants, in order to move to self-sufficiency at the earliest possible time, the FIA shall most often include part-time employment in combination with participation in other PROMISE JOBS activities such as, but not limited to, high school completion, GED, ABE, or ESL, unpaid community service, parenting skills training, or placement on a PROMISE JOBS waiting list.

**441—93.114(239B) Assignment to vocational classroom training.** Participants who demonstrate capability and who express a desire to participate shall be considered for enrollment in the PROMISE JOBS classroom training component. This component shall also be used to fund the costs of ABE, GED, or ESL and other high school completion activities described in these rules.

**93.114(1)** Classroom training means any academic or vocational training course of study which enables a participant to complete high school or improve one's ability to read and speak English, or which prepares the individual for a specific professional or vocational area of employment. A training plan shall be based on occupational evaluation and assessment as obtained in accordance with the assessment processes described at rule 441—93.111(239B).

*a.* The plan shall be approved for training facilities which are approved or registered with the state or accredited by an appropriate accrediting agency. Institutional training can be provided by both public and private agencies.

*b.* In addition, PROMISE JOBS workers may approve training from community action program agencies, churches, or other agencies providing training, if in the worker's judgment, the training is adequate and leads to the completion of the goal outlined in the employability plan.

*c.* Training from a particular training facility, community action program agency, church or other agency shall be approved when the worker determines that the training provider possesses appropriate and up-to-date equipment, has qualified instructors, adequate facilities, a complete curriculum, acceptable grade point requirements, a good job-placement history and demonstrates expenses of training that are reasonable and comparable to the costs of similar programs.

*d.* A participant's request for classroom training services shall be denied when it is determined through assessment that the participant will be unlikely to successfully complete the requested program. Form SS-1104-0, Notice of Decision-Services, shall be issued to the participant to inform the participant that the request for training is denied.

**93.114(2)** All family members who meet classroom training eligibility criteria shall be eligible for all program benefits, even when two or more family members are simultaneously participating and even if participation is at the same training facility and in the same program.

**93.114(3)** Academic workload requirements. With the exceptions noted below, participants are expected to maintain a full-time academic workload and to complete training within the minimum time frames specified for a given training program as established by the training facility. The time frames specified are maximums. Months required to complete the training plan cannot exceed these limits, whether full-time or part-time.

*a.* Months spent in ABE, GED, or ESL program do not count toward the time limits described below.

*b.* For purposes of the following participation limitations a month of participation is defined as a fiscal month or part thereof starting with the month PROMISE JOBS classroom training services begin. A fiscal month shall generally have starting and ending dates falling within two calendar months but shall only count as one month of participation.

*c.* Months of participation need not be consecutive.

(1) Rescinded IAB 10/8/97, effective 11/12/97.

(2) Tuition allowances for all other programs (high school completion, GED, ABE, ESL, or short-term training programs of 29 weeks or less) shall not exceed the rate charged by the state of Iowa area school located nearest to the participant's residence which offers a course program comparable to the one in which the participant plans to enroll. If an area school in Iowa does not offer a comparable program, the maximum tuition rate payment shall not exceed the Iowa resident rate charged by the area school located nearest to the participant's residence.

(3) A standard allowance of $10 per term or actual cost, whichever is higher, for basic school supplies shall be allowed for those participants who request it. A claim for actual costs higher than $10 must be verified by receipts.

(4) A per diem allowance of $10 for living costs during a practicum shall be allowed when the practicum is required by the curriculum of the training facility, would require a round-trip commuting time of three hours or more per day, and is not available closer to the client's home. If practicum earnings or any nonreimbursable assistance is available to meet practicum living costs, no allowance shall be made.

(5) Allowances may also be authorized to meet the costs of travel required for certification and testing, not to exceed the transportation allowance as described at 93.110(6) and the current state employee reimbursement rate for meals and lodging.

(6) No allowance shall be made for any item that is being paid for through earnings that are diverted for that purpose.

(7) Funds may not be used to purchase supplies to enable a participant to begin a private business.

*b.* Participants shall submit Form 470-0510, Estimate of Cost, to initiate allowances or change the amount of payment for expenses other than child care. Clients shall submit Form 470-2959, Child Care Certificate, to initiate child care payments or change the amount of child care payments. Participants shall use PROMISE JOBS allowances which they receive to pay authorized expenses.

*c.* Participants shall furnish receipts for expenditures which they pay, except for transportation allowances. Failure to provide receipts will preclude additional payments.

*d.* Receipts may be requested for allowances paid directly to the training provider if the PROMISE JOBS worker determines it is appropriate.

**93.114(13)** Payment of allowances.

*a.* Participant eligibility for payment of transportation and child care allowances shall commence for that month, or part thereof, that the participant begins training under an approved plan or is removed from a waiting list as described at 93.105(3), whichever is later, and shall be terminated when training is terminated.

*b.* PROMISE JOBS responsibility for financial assistance begins with that month, or part thereof, during which the participant begins training under an approved plan or is removed from a waiting list as described at 93.105(3), whichever is later.

*c.* Retroactive payments of transportation and allowable direct education costs shall only be allowed under the following conditions:

(1) If plan approval or removal from a waiting list as described at 93.105(3), whichever is later, occurs after the start of the term due to administrative delay or worker delay, payments shall be approved retroactive to the start of the term for which the plan is approved or removal from the waiting list is authorized. If costs were already paid by the participant with private resources, the participant shall be reimbursed.

(2) If plan approval or removal from a waiting list as described at 93.105(3), whichever is later, is delayed due to the suspension of FIP benefits, retroactive payments for the month of suspension shall be made. If costs were already paid by the participant with private resources, the participant shall be reimbursed.

(3) If plan approval is delayed due to the fault of the participant, payment eligibility shall begin with the first day of the month during which the plan is approved or the month in which the participant is removed from a waiting list as described at 93.105(3), whichever is later. In this instance, there shall be no reimbursement for costs already paid by the participant.

*d.* Rescinded IAB 1/1/97, effective 3/1/97.

*e.* When a participant receives transportation payments from another program which equals or exceeds that possible under PROMISE JOBS, transportation shall not be paid by PROMISE JOBS for any month covered by the other program. When the amount received from another program is less than that possible under PROMISE JOBS, a supplemental payment may be made as long as the combined payment does not exceed that normally paid by PROMISE JOBS.

*f.* Payments shall not exceed the rate that the provider would charge a private individual.

**93.114(14)** Completion or termination of a training plan.

*a.* Participants who successfully complete their training plans may keep any books or supplies, including tools, which were purchased with PROMISE JOBS funds.

*b.* Participants who do not complete their training program and do not obtain training-related employment within 60 days of leaving training shall return all reusable supplies, including books and tools, but not clothing, purchased by PROMISE JOBS.

(1) Staff are authorized to donate to nonprofit organizations any items which they determine are unusable by the program.

(2) When tools are not returned, the amount of the PROMISE JOBS payment shall be considered an overpayment unless the participant verifies theft of the tools through documentation of timely report to a law enforcement agency.

*c.* When a participant enrolled in the classroom training component chooses the limited benefit plan, the participant shall be denied additional PROMISE JOBS-funded classroom training services for a minimum of one year from the effective date of the LBP. This one-year period of denied classroom training service does not apply to participants who are under the age of 18 and who are required to participate in high school completion activities.

*d.* A worker shall terminate a training plan and offer the participant the opportunity to renegotiate and amend the FIA when the participant, after a school term of probation as described in subrule 93.114(8), is unable to achieve the cumulative grade point average required by the training facility. This paragraph does not apply to parents under the age of 18 who are enrolled in high school completion activities.

*e.* A worker may terminate a training plan and offer the opportunity to renegotiate and amend the FIA when it can be documented that the participant's continuation in the training program is detrimental to family functioning. This paragraph does not apply to parents under the age of 18 who are enrolled in high school completion activities.

*f.* LBP resolution policies at subrule 93.138(3) apply when the classroom training participant chooses the LBP in the following circumstances:

(1) The participant fails to appear for two consecutive scheduled appointments with the worker without good cause. The client shall have been notified of the appointments in writing.

(2) The participant refuses or fails to apply for outside funding resources when it is known that these sources are available.

(3) The participant states that there is no intent to become employed after completing training.

(4) The participant fails to cooperate in providing information concerning grades, academic progress, financial resources, change of address, change of telephone number, or change of family composition.

12. Participants who do not secure adequate child care when registered or licensed facilities are available.

13. Participants for whom child care, transportation, or educational services become unavailable as a result of failure to use PROMISE JOBS funds or child care assistance funds to pay the provider or failure to provide required receipts.

14. FIA-responsible persons who are required to participate in high school completion activities and who fail to provide grade transcripts or reports.

**441—93.133(239B) Problems with participation of a temporary or incidental nature.** Problems with participation as described below shall be considered to be of a temporary or incidental nature when participation can be easily resumed. These problems are acceptable instances when a participant is excused from participation or for refusing or quitting a job or limiting or reducing hours or for discharge from employment due to misconduct as described at rule 441—93.132(239B).

**441—93.150(239B) Financial.** The provider agency shall receive financial reimbursement as specified in contracts negotiated with each agency. Contracts shall also specify in detail the expenses which are not eligible for reimbursement.

**441—93.151(239B) Recovery of PROMISE JOBS expense allowances.** When a participant or a provider receives an expense allowance for transportation or other supportive expenses which are greater than allowed under these rules or a duplicate payment of these expense allowances, an overpayment is considered to have occurred and recovery is required. There are two categories of PROMISE JOBS expense allowances subject to recovery: (1) transportation and (2) other supportive expense allowances excluding child care. The PROMISE JOBS worker shall notify the department of inspections and appeals (DIA) to record the overpayment in the Overpayment Recovery System at the same time that the client or provider is notified of the overpayment. The outstanding balance of any overpayments which occurred prior to July 1, 1990, shall be treated in the same manner. A PROMISE JOBS overpayment shall be recovered through repayment in part or in full, or through offsetting against future payments in the same category. Underpayments and overpayments may be offset against each other in correcting incorrect payments in the same category. Repayments received by the PROMISE JOBS unit and information about recoveries made through offsetting shall be transmitted to the Department of Human Services, Cashier's Office.

Overpayments of PROMISE JOBS child care issued for months prior to July 1999 shall be subject to recovery rules of the PROMISE JOBS program.

**93.151(1)** The PROMISE JOBS worker shall promptly notify the client or the provider of the amount and causes of the overpayment, the date the overpayment was received, and appeal rights using the Notice of Overpayment—PROMISE JOBS Expense Allowances, Form 470-2666. The client or provider has 30 days to appeal the Notice of Overpayment—PROMISE JOBS Expense Allowances. However, the existence and amount of the overpayment must be appealed within 30 days of the issuance of the Notice of Overpayment—PROMISE JOBS Expense Allowances. If a client or provider files an appeal request, the PROMISE JOBS unit shall notify DIA within three working days of receipt of the appeal request.

*a.* Actual offsetting in the PROMISE JOBS office cannot begin until after the end of the 30-day appeal period which begins with the day following issuance of the Notice of Overpayment—PROMISE JOBS Expense Allowances. If a client or a provider files an appeal request during the 30-day appeal period, the PROMISE JOBS unit shall not initiate offsetting until the appeal is resolved by withdrawal or a final appeal decision which permits offsetting as a method of overpayment recovery.

*b.* When a client or a provider offers repayment in part or in full before the end of the 30-day appeal period, the PROMISE JOBS unit or the department of human services local office shall accept the payment. If a subsequent appeal request is received, the PROMISE JOBS unit shall notify DIA and shall not accept any further payments on the claim. The amount of the voluntary payment shall not be returned to the client or provider unless the final decision on the appeal directs the department to do so.

**93.151(2)** When offsetting is to be used to recover the overpayment, the PROMISE JOBS worker shall issue a Notice of Decision-Services, Form SS-1104-0, after the end of the 30-day appeal period, informing the client or the provider of the amount to be offset. In those instances where the amount to be offset changes, a new Notice of Decision-Services shall be issued. The notice must be timely and the client or provider has the right to appeal the notice which initiates offsetting and any subsequent notice which changes the amount to be offset.

**93.151(3)** When a participant receives an overpayment and is unable or unwilling to make a refund, the PROMISE JOBS worker shall recover the overpayment by offsetting it against future months' expenses in the same category.

*a.* Rescinded IAB 6/30/99, effective 7/1/99.

*b.* In those instances when the PROMISE JOBS worker is offsetting to recover support services, sufficient current expenses shall be paid to enable continued participation in the activity.

*c.* When it becomes impossible to recover through offsetting, either because the participant is no longer participating in PROMISE JOBS or because any potential offsetting would jeopardize the participant's progress toward the employment goal, the PROMISE JOBS worker shall notify DIA so that recovery procedures can be initiated.

**93.151(4)** When a support services provider receives an overpayment on behalf of a PROMISE JOBS participant and is unable or unwilling to make a refund, the PROMISE JOBS worker may recover the overpayment by offsetting it against future months' expenses for the same client.

*a.* The period of time available to complete the offsetting will be limited according to the amount of the overpayment. For amounts up to $500, three months is the maximum period; for amounts over $500 and up to $1,000, six months is the maximum period. Offsetting shall not be initiated for overpayments which do not meet these limits.

*b.* When it becomes impossible to recover through offsetting, because the client is no longer participating in PROMISE JOBS, or because the overpayment amount exceeds the limits described in paragraph *"a"* above or because the provider will deny service to the client if offsetting is initiated, the PROMISE JOBS worker shall notify the DIA so that repayment procedures can be initiated.

*c.* If the provider does not agree that an overpayment has occurred or will deny service to the client if offsetting is initiated, the PROMISE JOBS worker shall not initiate offsetting. The worker shall explain that DIA will contact the provider regarding recovery procedures and shall explain appeal rights as found in 441—Chapter 7.

**93.151(5)** When a client or a provider has been referred to DIA to initiate recovery, DIA shall use the same methods of recovery as are used for the FIP program, described at DIA rules 481—71.1(10A) to 71.9(10A), except that the FIP grant shall not be reduced to effect recovery without the client's written permission.

*a.* When the client requests grant reduction on the Agreement to Repay, Form PA-3164-0, grant reduction will be made as described in 441—subrule 46.25(3), paragraphs *"a," "b,"* and *"c,"* based on definitions of client error and agency error in rule 441—46.21(239B).

*b.* With regard to provider overpayments, DIA is authorized to take any reasonable action to effect recovery such as, but not limited to: informal agreements, civil action, or criminal prosecution. However, DIA shall not take any action which would jeopardize the participant's continued participation in the PROMISE JOBS program.

**441—93.152(239B) Disadvantaging the family by a change in child care method.** Rescinded IAB 6/30/99, effective 7/1/99.

These rules are intended to implement Iowa Code Supplement sections 239B.17 to 239B.22.

[Filed emergency 6/29/89 after Notice 5/3/89—published 7/26/89, effective 7/1/89]
[Filed 12/15/89, Notice 7/26/89—published 1/10/90, effective 3/1/90]
[Filed 4/13/90, Notice 2/21/90—published 5/2/90, effective 7/1/90]
[Filed without Notice 7/13/90—published 8/8/90, effective 10/1/90]
[Filed 9/28/90, Notice 8/8/90—published 10/17/90, effective 12/1/90]
[Filed 5/17/91, Notice 3/20/91—published 6/12/91, effective 8/1/91]
[Filed emergency 6/14/91—published 7/10/91, effective 7/1/91]
[Filed 9/18/91, Notice 7/10/91—published 10/16/91, effective 12/1/91]
[Filed emergency 10/10/91 after Notice 8/21/91—published 10/30/91, effective 11/1/91]
[Filed 11/15/91, Notice 9/18/91—published 12/11/91, effective 2/1/92]
[Filed 4/16/92, Notice 2/19/92—published 5/13/92, effective 7/1/92]
[Filed 2/10/93, Notice 1/6/93—published 3/3/93, effective 5/1/93]
[Filed 6/9/93, Notice 4/14/93—published 6/23/93, effective 8/1/93]
[Filed emergency 9/17/93—published 10/13/93, effective 10/1/93]
[Filed emergency 11/12/93—published 12/8/93, effective 1/1/94]
[Filed 12/16/93, Notice 10/13/93—published 1/5/94, effective 3/1/94]
[Filed 2/10/94, Notice 12/8/93—published 3/2/94, effective 5/1/94]
[Filed emergency 7/12/95 after Notice 6/7/95—published 8/2/95, effective 8/1/95]
[Filed without Notice 9/25/95—published 10/11/95, effective 12/1/95]
[Filed emergency 11/16/95—published 12/6/95, effective 12/1/95]
[Filed emergency 1/10/96 after Notice 10/11/95—published 1/31/96, effective 2/1/96]
[Filed 1/10/96, Notice 10/11/95—published 1/31/96, effective 4/1/96]
[Filed emergency 6/13/96—published 7/3/96, effective 7/1/96]
[Filed emergency 8/15/96 after Notice 6/19/96—published 9/11/96, effective 9/1/96]
[Filed 8/15/96, Notices 5/8/96, 7/3/96—published 9/11/96, effective 11/1/96]
[Filed 12/12/96, Notice 11/6/96—published 1/1/97, effective 3/1/97]
[Filed emergency 1/15/97—published 2/12/97, effective 3/1/97]
[Filed 4/11/97, Notice 2/12/97—published 5/7/97, effective 7/1/97]
[Filed 9/16/97, Notice 7/16/97—published 10/8/97, effective 11/12/97]
[Filed 11/12/97, Notice 9/10/97—published 12/3/97, effective 2/1/98]
[Filed emergency 6/10/98—published 7/1/98, effective 7/1/98]
[Filed emergency 7/15/98 after Notice 6/3/98—published 8/12/98, effective 8/1/98]
[Filed 8/12/98, Notice 7/1/98—published 9/9/98, effective 11/1/98]
[Filed 3/10/99, Notice 11/18/98—published 4/7/99, effective 5/31/99]
[Filed 3/10/99, Notice 11/18/98—published 4/7/99, effective 6/1/99]
[Filed emergency 6/10/99—published 6/30/99, effective 7/1/99]

CHAPTERS 119 to 129
Reserved

TITLE XIII
*SERVICE ADMINISTRATION*

# CHAPTER 130
# GENERAL PROVISIONS

[Prior to 7/1/83, Social Services[770] Ch 130]
[Prior to 2/11/87, Human Services[498]]

**441—130.1(234) Definitions.**

*"Family"* includes the following members:

1. Legal spouses (including common law) who reside in the same household.
2. Natural, adoptive, or step mother or father, and children who reside in the same household.
3. An individual or a child who lives alone or who resides with a person, or persons, not legally responsible for the child's support.

*"Rehabilitative treatment service"* means treatment services designed to address the treatment needs of a child in one of the following programs:

1. Family-centered.
2. Family preservation.
3. Family foster care.
4. Group care.

*"Review organization"* means the entity designated by the department to make rehabilitative treatment service authorization determination.

This rule is intended to implement Iowa Code section 234.6.

**441—130.2(234,239B) Application.**

**130.2(1)** Application for social services shall be made at any county office of the department of human services on forms available at the county office.

Application for child care assistance shall be made on Form 470-3624, Child Care Assistance Application. Application for all other services shall be made on Form 470-0615, Application for All Social Services.

**130.2(2)** The application may be filed by the applicant, the applicant's authorized representative, or where the applicant is incompetent or incapacitated, someone acting responsibly for the applicant.

**130.2(3)** The date of application is the date a signed application form is received in the county office.

**130.2(4)** The application shall be approved or denied within 30 days from the date of application and the applicant notified of the decision. The decision shall be mailed or given to the applicant on the date the determination is made except that for services ordered by the court, the court order provided by the court and the case permanency plan provided by the department shall serve as notification. When individual case management services are being provided under 441—Chapter 24 for persons with mental retardation, a developmental disability, or chronic mental illness, the application shall be approved or denied no later than the date that the department service manager, who is part of the interdisciplinary team, signs the individual program plan.

**130.2(5)** Eligibility shall be redetermined in the same manner as an application at least every six months for child care and family-centered services. For all other services, eligibility shall be redetermined in the same manner as an application at least every 12 months.

EXCEPTION: Recipients of the family investment program or those whose earned income was taken into account in determining the needs of family investment recipients will be deemed eligible notwithstanding eligibility redetermination requirements for child care.

If family investment program eligibility terminates, the worker shall redetermine child care assistance eligibility according to child care assistance eligibility requirements as established in rule 441—130.3(234,239B). The redetermination of eligibility shall be completed within 30 days.

If the department has placed a family in the family investment program on suspension, the family will continue to receive child care assistance until their family investment program has been canceled.

**130.2(6)** Applications shall not be taken for child care services that have been posted in the county office as not available due to a lack of funding.

EXCEPTION: Recipients of the family investment program, or those whose earned income was taken into account in determining the needs of family investment program recipients, are eligible for child care assistance notwithstanding the posting and lack of funding.

**130.2(7)** Waiting lists for child care services. The regional office shall maintain a log of families applying for child care services who meet the requirements within the priority groupings for which funds may be available. When the department determines there is adequate funding, the department shall take steps to notify the public regarding the availability of funds.

*a.* The service worker in the county office shall contact the regional staff person responsible for maintaining the log for the region by the end of the second workday after receipt of the application for child care services. By the end of the third workday after receipt of the application, the family shall be entered in the regional log.

*b.* Each family shall be entered in the logs according to the eligibility priority and in sequence of the date of application. In the event more than one application is received on the same day in the same priority grouping, families shall be entered on the log on the basis of the day of the month of the birthday of the oldest eligible child, lowest number being first on the log. Any subsequent tie shall be decided by the month of birth, January being month one and the lowest number.

*c.* Recipients of the family investment program, or those whose earned income was taken into account in determining the needs of family investment program recipients, are eligible for child care assistance notwithstanding waiting lists for child care services.

*d.* Rescinded IAB 6/30/99, effective 7/1/99.

**130.2(8)** For rehabilitative treatment services, the worker shall make a referral of the child or family to the review organization as directed in rule 441—185.3(234).

This rule is intended to implement Iowa Code section 234.6 and 1999 Iowa Acts, House File 761, division III.

**441—130.3(234,239B) Eligibility.**

**130.3(1)** Eligibility factors for services available through the department are individual need for a service and family income except when services are provided without regard to income or when services are directed in a court order.

*a.* Individual need is established when the service to be provided is directed at and will facilitate an individual in reaching or maintaining one of the goals and objectives in 130.7(1). Except when the court establishes need, the department shall do so in accordance with individual service chapters. The department shall determine the number of units to be provided.

*b.* The block grant service to be provided shall be contained in the pre-expenditure report and listed for the specific district and county. Service available through the department and funded by resources other than the social service block grant is identified in rules for that specific service.

*c.* Service shall be provided only when funds are available for service delivery.

*d.* Persons are financially eligible for services when they are in one of the following categories, except for child care services where persons must be income eligible:

(1) Income maintenance status. They are recipients of the family investment program, or those whose income was taken into account in determining the needs of family investment program recipients, or recipients of supplemental security income or state supplementary assistance, or those in the 300 percent group as defined in 441—subrule 75.1(7).

(2) Income eligible status. The monthly gross income according to family size is no more than the following amounts:

| Family Size | For Child Care Monthly Gross Income | | | All Other Services Monthly Gross Income Below |
|---|---|---|---|---|
| | A | B | C | |
| 1 Member | $ 687 | $ 961 | $1,202 | $ 583 |
| 2 Members | 922 | 1,290 | 1,613 | 762 |
| 3 Members | 1,157 | 1,619 | 2,024 | 942 |
| 4 Members | 1,392 | 1,948 | 2,435 | 1,121 |
| 5 Members | 1,627 | 2,277 | 2,847 | 1,299 |
| 6 Members | 1,862 | 2,606 | 3,258 | 1,478 |
| 7 Members | 2,097 | 2,935 | 3,669 | 1,510 |
| 8 Members | 2,332 | 3,264 | 3,766 | 1,546 |
| 9 Members | 2,567 | 3,593 | 3,863 | 1,581 |
| 10 Members | 2,802 | 3,922 | 3,960 | 1,612 |

For child care, Column A, add $235 for each additional person over 10 members. For child care, Column B, add $329 for each additional person over 10 members. For child care, Column C, add $97 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 when funds are insufficient to serve additional families beyond those already receiving services or requiring protective child care and applications are being taken from families who are at or below 100 percent of the federal poverty guidelines and in which the parents are employed at least 28 hours per week or are under the age of 21 and participating in an educational program leading to a high school diploma or equivalent or from parents under the age of 21 with a family income at or below 100 percent of the federal poverty guidelines who are participating, at a satisfactory level, in an approved training or education program. (See 441—paragraphs 170.2(3)"*a*" and "*c.*")

Column B is used to determine income eligibility when funds are insufficient to serve additional families beyond those already receiving services or requiring protective child care and applications are being taken from families with an income of more than 100 percent but not more than 140 percent of the federal poverty level whose members are employed at least 28 hours per week (see 441—paragraph 170.2(3)*"d"*) or when there is adequate funding and no waiting lists and applications are being taken from families applying for services, with the exception of families with children with special needs.

Column C is used to determine income eligibility for families with children with special needs.

(3) Foster child status. For a child residing in foster care, the foster child shall be considered a family of one and the child's income shall be the only income considered in determining eligibility for child care services.

(4) A person who is participating in activities approved under the PROMISE JOBS program is eligible for child care assistance without regard to income if there is a need for child care services.

(5) A person who is part of the family investment program, or whose earned income was taken into account in determining the needs of the family investment program recipient, is eligible for child care assistance without regard to income if there is a need for child care services.

*e.* Certain services are provided without regard to income which means family income is not considered in determining eligibility. The services provided without regard to income are information and referral, child abuse investigation, child abuse treatment, child abuse prevention services, including protective child care services, family-centered services, dependent adult abuse evaluation, dependent adult abuse treatment, dependent adult abuse prevention services, and purchased adoption services to individuals and families referred by the department.

*f.* In certain cases the department will provide services directed in a court order.

**130.3(2)** To be eligible for services the person must be living in the state of Iowa. Living in the state shall include those persons living in Iowa for a temporary period, other than for the purpose of vacation.

**130.3(3)** In determining gross income, all income received by an individual from sources identified by the U.S. Census Bureau in computing median income is considered and includes money wages or salary, net income from nonfarm self-employment, net income from farm self-employment, social security, dividends, interest, income from estates or trusts, net rental income and royalties, public assistance or welfare payments, pensions and annuities, unemployment compensation, worker's compensation, alimony, child support; and veterans pensions. Excluded from the computation of monthly gross income are the following:

*a.* Per capita payments to or funds held in trust for any individual in satisfaction of a judgment of the Indian claims commission or the court of claims.

*b.* Payments made pursuant to the Alaska Claims Settlement Act to the extent such payments are exempt from taxation under section 21(a) of the Act.

*c.* Money received from the sale of property, unless the person was engaged in the business of selling such property.

*d.* Withdrawals of bank deposits.

*e.* Money borrowed.

*f.* Tax refunds.

*g.* Gifts.

*h.* Lump sum inheritances or insurance payments or settlements.

*i.* Capital gains.

*j.* The value of the coupon allotment under the Food Stamp Act of 1964, as amended, in excess of the amount paid for the coupons.

*k.* The value of USDA donated foods.

*l.* The value of supplemental food assistance under the Child Nutrition Act of 1966 and the special food program for children under the National School Lunch Act, as amended.

*m.* Earnings of a child 14 years of age or under.

*n.* Loans and grants obtained and used under conditions that preclude their use for current living expenses.

*o.* Any grant or loan to any undergraduate student for educational purposes made or insured under the Higher Education Act.

*p.* Home produce utilized for household consumption.

*q.* Earnings received by any youth under Title III, Part C—Youth Employment Demonstration Program of the Comprehensive Employment and Training Act of 1973.

*r.* Stipends received by persons for participating in the foster grandparent program.

*s.* The first $65 plus 50 percent of the remainder of income earned in a sheltered workshop or work activity setting.

*t.* Payments from the low-income home energy assistance program.

*u.* In determining eligibility for purchase of local services, one-third of the income of a disabled survivor who is a recipient of child's insurance benefits under the federal old-age, survivors, and disability insurance program established under Title II of the Federal Social Security Act.

*v.* In determining eligibility for purchase of local services, one-third of the income of a person who receives social security permanent disability benefits.

*w.* Agent Orange settlement payments.

*x.* For child care services, the income of the parent(s) with whom the teen parent(s) resides.

*y.* For child care services for children with special needs, income spent on any regular ongoing cost is specific to that child's disability.

*z.* Moneys received under the federal Social Security Persons Achieving Self-Sufficiency (PASS) program or the Income-Related Work Expense (IRWE) program.

*aa.* For child care services, if a recipient of the family investment program, or one whose earned income was taken into account in determining the needs of the family investment program recipient, is excluded from the family investment program due to receiving Supplemental Security Income, the income received from the Supplemental Security Income recipient is excluded in determining gross income. The income of a child who would be in the family investment program eligible group except for the receipt of Supplemental Security Income is also excluded.

**130.3(4)** Rescinded IAB 8/9/89, effective 10/1/89.

**130.3(5)** Temporary absence. The composition of the family group does not change when one, or more, of the group members is temporarily absent from the household.

*"Temporary absence"* means:

*a.* A medical absence anticipated to be less than three months.

*b.* An absence for the purpose of education or employment.

*c.* When a family member is absent and intends to return home within three months.

**130.3(6)** A person who is deemed to be eligible for state child care assistance program benefits under this chapter is subject to all other state child care assistance requirements including, but not limited to, provider requirements under Iowa Code chapter 237A, provider reimbursement methodology and rates, and any other requirements established by the department.

This rule is intended to implement Iowa Code section 234.6 and 1999 Iowa Acts, House File 761, division III.

**441—130.4(234,239B) Fees.** The department may set fees to be charged to clients for services received. The fees will be charged to those clients eligible under rule 130.3(234,239B), but not those receiving services without regard to income due to a protective service situation or for rehabilitative treatment services. Nothing in these rules shall preclude a client from voluntarily contributing toward the costs of service.

**130.4(1)** *Collection.* The provider shall collect fees from clients. The provider shall maintain records of fees collected, and such records shall be available for audit by the department or its representative. When a client does not pay the fee, the provider shall demonstrate that a reasonable effort has been made to collect the fee. Reasonable effort to collect means an original billing and two follow-up notices of nonpayment.

**130.4(2)** *Monthly income.* Rescinded IAB 1/8/92, effective 3/1/92.

**130.4(3)** *Child care services.* The monthly income chart and fee schedule for child care services in a licensed child care center, an exempt facility, a registered family or group child care home, a nonregistered family child care home, in-home care, or relative care are shown in the following table:

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 | 653 | 877 | 1100 | 1323 | 1546 | 1770 | 1993 | 2216 | 2440 | 2663 | .00 |
| B | 688 | 923 | 1158 | 1393 | 1628 | 1863 | 2098 | 2333 | 2568 | 2803 | .50 |
| C | 726 | 974 | 1222 | 1471 | 1719 | 1967 | 2215 | 2464 | 2712 | 2960 | 1.00 |
| D | 767 | 1029 | 1291 | 1553 | 1815 | 2077 | 2340 | 2602 | 2864 | 3126 | 1.50 |
| E | 810 | 1087 | 1363 | 1640 | 1917 | 2193 | 2471 | 2747 | 3024 | 3301 | 2.00 |
| F | 855 | 1147 | 1440 | 1732 | 2024 | 2316 | 2609 | 2901 | 3193 | 3486 | 2.50 |
| G | 903 | 1212 | 1520 | 1829 | 2137 | 2446 | 2755 | 3064 | 3372 | 3681 | 3.00 |
| H | 954 | 1279 | 1605 | 1931 | 2257 | 2583 | 2909 | 3235 | 3561 | 3887 | 3.50 |
| I | 1007 | 1351 | 1695 | 2039 | 2383 | 2728 | 3072 | 3416 | 3760 | 4105 | 4.00 |
| J | 1063 | 1427 | 1790 | 2154 | 2517 | 2880 | 3244 | 3608 | 3971 | 4334 | 4.50 |
| K | 1123 | 1507 | 1890 | 2274 | 2658 | 3042 | 3426 | 3810 | 4193 | 4577 | 5.00 |
| L | 1186 | 1591 | 1996 | 2402 | 2807 | 3212 | 3618 | 4023 | 4428 | 4834 | 5.50 |
| M | 1252 | 1680 | 2108 | 2536 | 2964 | 3392 | 3820 | 4248 | 4676 | 5104 | 6.00 |

The following instructions apply to use of the sliding fee schedule:

*a.* Determine number of persons in family that was used in determining income eligibility for service. Move across the monthly income table to the column headed by that number.

*b.* Determine monthly family income. Move down the column identified in paragraph *"a."* Income at or above that income is that corresponding fee. Income less than that level of income is the previous level of fee. (EXAMPLE: Income above Level A but less than Level B is Level A fee (0). Income at or above Level B is Level B fee (.50 per half day).)

*c.* When more than one child is attending a child care program, there is no additional fee. The fee shall be based on the child who receives the most care.

*d.* When a family has more than 10 members, find the income levels by multiplying the figures in the 4-member column by 0.03. Round the answers to the nearest dollar and multiply by the number in the family in excess of 10. Add these results to the amounts in the 10-member column.

*e.* Rescinded IAB 7/7/93, effective 7/1/93.

*f.* The unit of service is a half day which shall be up to 5 hours of service per 24-hour period.

**130.4(4)** Rescinded, effective 7/1/81.

This rule is intended to implement Iowa Code section 234.6.

**441—130.5(234) Adverse service actions.**

**130.5(1)** *Denial.* Services shall be denied when it is determined by the department that:

*a.* The client is not in need of service, or

*b.* The client is not financially eligible, or

*c.* The service to be provided is not in the annual Title XX plan, or

*d.* There is another community resource available to provide the service or a similar service free of charge to the client that will meet the client's needs, or

*e.* In cases other than protective service investigation, the client, parent, or representative refuses to sign the application form, or

*f.* The service for which the client is eligible is currently not available; a list of these services will be posted in each local office, or

*g.* Funding is not available to provide the service. A list of services not available due to lack of funding shall be posted in each local office.

*h.* Rescinded IAB 8/9/89, effective 10/1/89.

*i.* Slots are not available for child care services.

**130.5(2)** *Termination.* A particular service may be terminated when the department determines that:

*a.* The specific need to attain the Title XX goals and objectives to which the service was directed has been achieved, or

*b.* After repeated assessment, it is evident that the family or individual is unable to achieve or maintain the goals set forth in the individual client service plan, or

*c.* After repeated efforts, it is evident that the family or individual is unwilling to accept further service, or

*d.* The client's income or resources exceed the financial guidelines, or

*e.* The service is no longer available in the annual Title XX plan, or

*f.* No payment or partial payment of client fees has been received within 30 days following the issuance of the last billing, or

*g.* Another community resource is available to provide the service or a similar service free of charge to the client that will meet the client's needs, or

*h.* The client refuses to allow documentation of eligibility as to need, income, and resources, or

*i.* Funding is not available to provide the service. A list of services not available due to lack of funding shall be posted in each local office.

*j.* The fee for case management services has not been paid within 30 days of the date on the second invoice sent by the department case management unit to the client. The second invoice shall be sent 30 days after the date of the first invoice if full payment of the fee has not been received.

**130.5(3)** *Reduction.* A particular service may be reduced when the department determines that:

*a.* Continued provision of service at its current level is not necessary. The department shall determine the level to which the service may be reduced without jeopardizing the client's continued progress toward achieving or maintaining the goal. The client shall be notified of the decision.

*b.* Another community resource is available to provide the same or similar service to the client at no financial cost to the client, that will meet the client's needs.

*c.* Funding is not available to continue the service at the current level. The client shall be reassessed to determine the level of service to be provided.

*d.* The department may limit on a statewide basis the units of child day care services for which payment will be made based on the availability of funds.

EXCEPTION: Recipients of the family investment program, or those whose earned income was taken into account in determining the needs of family investment program recipients, are not subject to reduction.

**130.5(4)** Rescinded, effective 6/1/84.

**130.5(5)** *Pending changes.* Workers shall endeavor to make clients aware of pending changes in services to be provided by social services block grant from one program year to the next, particularly for those services that will no longer be available. This requirement also applies to time-limited services.

**130.5(6)** *Inability of eligible cases to pay fees.* After billing or notification of termination and when the client reports in writing the inability to pay the fee due to the existence of one or more of the conditions set forth in the paragraphs below, and the worker assesses and verifies the condition, service shall be continued without fee until the condition no longer exists and the client is able to participate in the current fee for service. The worker shall assess all inability to pay cases to determine whether any case can be charged a reduced fee. The reduced fee shall then be charged until full participation in fees is possible.

*a.* Extensive medical bills for which there is neither payment through the medical assistance program, Title XVIII of the Social Security Act, nor other insurance coverage.

*b.* Shelter costs in excess of 30 percent of the household income.

*c.* Utility costs not including the cost of a telephone, in excess of 15 percent of the household income.

*d.* Rescinded 10/30/91, effective 11/1/91.

*e.* Additional expenses for food resulting from diets prescribed by a physician.

This rule is intended to implement Iowa Code section 234.6 and 1988 Iowa Acts, House File 2447, section 17.

**441—130.6(234) Social casework.** For each active service case, when service is provided directly, purchased, or by a combination of methods, a department social worker shall:

**130.6(1)** Determine eligibility. For rehabilitative treatment services, eligibility shall be determined by the review organization as directed in 441—subrule 185.2(2).

**130.6(2)** Ensure that there is a department case plan for each individual or family based on assessment of strengths and needs. Furnish appropriate sections of the initial plan and of all updated department case plans to the provider agency when services are purchased for an individual. When individual case management services are being provided under 441—Chapter 24 for persons with mental retardation, a developmental disability, or chronic mental illness, the individual case management services provider shall distribute the case plans.

**130.6(3)** Refer the client to other workers or agencies through proper channels, and coordinate all workers involved in the case.

When individual case management services are being provided under 441—Chapter 24 for persons with mental retardation, a developmental disability, or chronic mental illness, the individual case management services provider shall be responsible for making referrals and coordinating workers as specified in the individual program plan.

**130.6(4)** Enter information to the service reporting system.

**130.6(5)** Monitor the case to ensure that eligibility continues, services are received, plans are adjusted as needed, services reporting system reporting is correct, and the case is canceled when appropriate, according to these rules.

**130.6(6)** Ensure that services are unavailable elsewhere without cost to the client.

This rule is intended to implement Iowa Code section 234.6.

**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—paragraph 170.2(3)*"d."* 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.

When individual case management services are being provided under 441—Chapter 24 for persons with mental retardation, a developmental disability, or chronic mental illness, the rules in 441—Chapter 24 on time limits, plan format and on who develops the plan shall apply for adults and for children whose services are not under court jurisdiction. The department worker shall determine eligibility for those services provided by the department; however, a separate department case plan need not be developed. If the individual program plan does not include sufficient information to meet department service requirements or the requirements in this chapter, the person providing department social casework shall complete either a case plan or addendum and coordinate distribution to the persons who receive the individual program plan with the case manager.

The case plan shall become part of the client's case record. The client shall participate in the development of this plan to the extent possible. The case plan shall be consistent with other service or program plans. A copy of the case plan shall be provided to the client, or when indicated, to the parent or representative of the client. For adult services the case plan shall be recorded using Form SS-0607-0, Individual Client Case Plan. For children's services the case plan shall be known as the case permanency plan and shall be prepared using Forms 427-1020, Case Permanency Plan Face Sheet, 427-1021, Case Permanency Plan Review, 427-1022, Case Permanency Plan Initial Assessment, and 427-1023, Case Permanency Plan Problem and Responsibility List; or Forms 427-1020, Case Permanency Plan Face Sheet and 470-2921, Emergency Placement Document for Goal of Family Reunification.

**130.7(1)** Services shall be directed toward the social services block grant goals of:

*a.* Achieving or maintaining self-support to prevent, reduce or eliminate dependency.

*b.* Achieving or maintaining self-sufficiency, including reduction or prevention of dependency.

*c.* Preventing or remedying neglect, abuse or exploitation of children or adults unable to protect their own interest, or preserving, rehabilitating or reuniting families.

*d.* Preventing or reducing inappropriate institutional care by providing for community-based care, home-based care, or other forms of less intensive care.

*e.* Securing referral or admission for institutional care when other forms of care are not appropriate, or providing services to individuals in institutions.

**130.7(2)** The recorded case plan shall contain, but not be limited to, the following:

*a.* The goal and objective to which the plan is directed, stated in a clear manner indicating the specific services required to achieve or maintain the goals to meet the needs of the particular client.

*b.* Activities of clients, workers, and others involved in the plan related to specific services. These shall be measurable and have time frames for completion.

*c.* A summary of all pertinent information relating to the client and the client's situation relative to need, and containing, but not limited to, the following:

(1) Emotional behavior.

(2) Social aspects.

(3) Historical perspective.

(4) Reasons for success or lack of success.

*d.* Information on case entries that will substantiate the client's eligibility for service.

*e.* A target date for reevaluation of the case plan based on assessment of need, which shall not exceed six months.

*f.* A review of financial eligibility in accordance with 130.2(5).

*g.* The reason for termination or reduction of any or all services.

*h.* Rescinded IAB 8/9/89, effective 10/1/89.

**130.7(3)** The case plan shall be developed and filed in the case record before services begin unless:

*a.* The department receives judicial notice that services have been court-ordered. The date of this notice shall be stated on Form 427-1022. The case plan shall be filed within 45 days from the date the notice is received or within 60 days from the date the child entered foster care, whichever is the earlier date. If the service ends before 30 days the minimum case plan requirement for children's services is completion of Form 427-1020, Face Sheet and of Form 470-2921, Emergency Placement Document for Goal of Family Reunification. Assessment shall begin at the time of the notice.

*b.* An unanticipated provision of service is provided for the protection and well-being of a client. Assessment shall begin immediately. The case plan shall be filed within 45 days from the date services are initiated or within 60 days from the date the child entered foster care, whichever is the earlier date. If the service ends before 30 days the minimum case plan requirement for children's services is completion of Form 427-1020, Face Sheet and of Form 470-2921, Emergency Placement Document for Goal of Family Reunification.

**130.7(4)** The reevaluation of the case plan shall include all components listed under 130.7(2) and shall be filed at least every six months, or more often when there are significant changes, when required by the court, or when required according to the rules of the service.

**130.7(5)** The case plan may be amended between evaluation periods. Participants in the plan shall receive a copy of the amendment.

This rule is intended to implement Iowa Code section 234.6 and 1984 Iowa Acts, chapter 1310, section 3.

**441—130.8 Monitoring and evaluation.** Rescinded IAB 12/13/89, effective 2/1/90.

**441—130.9(234) Entitlement.** Except as provided for rehabilitative treatment services, there is no automatic right to ongoing service in any service category from one fiscal year to the next.

This rule is intended to implement Iowa Code section 234.6.

[Filed 2/19/76, Notice 1/12/76—published 3/8/76, effective 4/12/76]
[Filed emergency 6/30/76—published 7/26/76, effective 7/1/76]
[Filed 9/29/76, Notice 8/23/76—published 10/20/76, effective 11/24/76]
[Filed 12/9/76, Notice 11/3/76—published 12/29/76, effective 2/2/77]
[Filed 6/10/77, Notice 5/4/77—published 6/29/77, effective 8/3/77]
[Filed 9/28/77, Notice 8/10/77—published 10/19/77, effective 11/23/77]
[Filed 10/24/77, Notice 9/7/77—published 11/16/77, effective 12/21/77]
[Filed 5/8/78, Notice 3/22/78—published 5/31/78, effective 7/5/78]
[Filed without Notice 11/7/78—published 11/29/78, effective 1/3/79]
[Filed 11/20/78, Notice 10/4/78—published 12/13/78, effective 1/17/79]
[Filed 2/7/79, Notice 12/27/78—published 2/21/79, effective 3/28/79]
[Filed emergency after Notice 6/29/79, Notice 4/4/79—published 6/27/79, effective 7/1/79]
[Filed emergency 12/5/79—published 12/26/79, effective 12/5/79]
[Filed 4/4/80, Notice 12/26/79—published 4/30/80, effective 6/4/80]
[Filed 5/5/80, Notice 2/20/80—published 5/28/80, effective 7/2/80]
[Filed 6/4/80, Notice 4/2/80—published 6/25/80, effective 7/30/80]
[Filed 9/26/80, Notice 8/6/80—published 10/15/80, effective 12/1/80]
[Filed emergency 10/23/80—published 11/12/80, effective 10/23/80]
[Filed 10/23/80, Notice 9/3/80—published 11/12/80, effective 12/17/80]
[Filed 1/16/81, Notice 12/10/80—published 2/4/81, effective 3 /11/81]
[Filed emergency 6/23/81 after Notices 2/4/81, 3/4/81—published 7/22/81, effective 7/1/81]
[Filed 6/30/81, Notice 5/13/81—published 7/22/81, effective 10/1/81]
[Filed 4/5/82, Notice 10/14/81—published 4/28/82, effective 7/1/82]
[Filed 4/29/82, Notice 3/17/82—published 5/26/82, effective 7/1/82]
[Filed emergency 5/21/82—published 6/9/82, effective 7/1/82]

[Filed emergency 1/14/83—published 2/2/83, effective 2/1/83]
[Filed 4/21/83, Notice 2/16/83—published 5/11/83, effective 7/1/83]
[Filed 4/21/83, Notice 3/2/83—published 5/11/83, effective 7/1/83]
[Filed emergency 6/17/83—published 7/6/83, effective 7/1/83]
[Filed emergency 9/26/83—published 10/12/83, effective 9/26/83]
[Filed 12/16/83, Notice 10/26/83—published 1/4/84, effective 3/1/84]
[Filed 4/2/84, Notice 2/1/84—published 4/25/84, effective 6/1/84]
[Filed emergency 6/15/84—published 7/4/84, effective 7/1/84]
[Filed 6/15/84, Notice 4/25/84—published 7/4/84, effective 9/1/84]
[Filed emergency 8/31/84—published 9/26/84, effective 10/1/84]
[Filed emergency 12/11/84—published 1/2/85, effective 1/1/85]
[Filed emergency 6/14/85—published 7/3/85, effective 7/1/85]
[Filed 7/26/85, Notice 5/22/85—published 8/14/85, effective 11/1/85]
[Filed 11/15/85, Notice 10/9/85—published 12/4/85, effective 2/1/86]
[Filed emergency 12/2/85—published 12/18/85, effective 1/1/86]
[Filed emergency 12/22/86—published 1/14/87, effective 1/1/87]
[Filed emergency 1/15/87—published 2/11/87, effective 1/15/87]
[Filed emergency 6/19/87—published 7/15/87, effective 7/1/87]
[Filed emergency 12/10/87—published 12/30/87, effective 1/1/88]
[Filed emergency after Notice 3/18/88, Notice 1/13/88—published 4/6/88, effective 4/15/88]
[Filed emergency 6/9/88—published 6/29/88, effective 7/1/88]
[Filed 9/1/88, Notice 6/29/88—published 9/21/88, effective 11/1/88]
[Filed emergency 12/8/88—published 12/28/88, effective 1/1/89]
[Filed 5/12/89, Notice 2/8/89—published 5/31/89, effective 8/1/89]
[Filed emergency 6/8/89—published 6/28/89, effective 7/1/89]
[Filed 7/14/89, Notice 4/19/89—published 8/9/89, effective 10/1/89]
[Filed 8/17/89, Notice 6/28/89—published 9/6/89, effective 11/1/89]
[Filed 9/15/89, Notice 8/9/89—published 10/4/89, effective 12/1/89]
[Filed emergency 11/16/89—published 12/13/89, effective 1/1/90]
[Filed 11/16/89, Notice 9/20/89—published 12/13/89, effective 2/1/90]
[Filed 2/16/90, Notice 12/13/89—published 3/7/90, effective 5/1/90]
[Filed emergency 6/14/90—published 7/11/90, effective 7/1/90]
[Filed 6/14/90, Notice 4/18/90—published 7/11/90, effective 9/1/90]
[Filed 8/16/90, Notice 7/11/90—published 9/5/90, effective 11/1/90]
[Filed emergency 12/13/90—published 1/9/91, effective 1/1/91]
[Filed 2/15/91, Notice 1/9/91—published 3/6/91, effective 5/1/91]
[Filed emergency 6/14/91—published 7/10/91, effective 7/1/91]
[Filed 6/14/91, Notice 5/1/91—published 7/10/91, effective 9/1/91]
[Filed emergency 10/10/91—published 10/30/91, effective 11/1/91]
[Filed emergency 12/11/91—published 1/8/92, effective 1/1/92]
[Filed 12/11/91, Notice 10/30/91—published 1/8/92, effective 3/1/92]
[Filed 1/15/92, Notice 11/27/91—published 2/5/92, effective 4/1/92]
[Filed 2/13/92, Notice 1/8/92—published 3/4/92, effective 5/1/92]
[Filed 3/12/92, Notice 2/5/92—published 4/1/92, effective 5/6/92]
[Filed emergency 6/12/92—published 7/8/92, effective 7/1/92]
[Filed 8/14/92, Notices 7/8/92◊—published 9/2/92, effective 11/1/92]

◊Two ARCs

**441—130.6(234) Social casework.** For each active service case, when service is provided directly, purchased, or by a combination of methods, a department social worker shall:

**130.6(1)** Determine eligibility. For rehabilitative treatment services, eligibility shall be determined by the review organization as directed in 441—subrule 185.2(2).

**130.6(2)** Ensure that there is a department case plan for each individual or family based on assessment of strengths and needs. Furnish appropriate sections of the initial plan and of all updated department case plans to the provider agency when services are purchased for an individual. When individual case management services are being provided under 441—Chapter 24 for persons with mental retardation, a developmental disability, or chronic mental illness, the individual case management services provider shall distribute the case plans.

**130.6(3)** Refer the client to other workers or agencies through proper channels, and coordinate all workers involved in the case.

When individual case management services are being provided under 441—Chapter 24 for persons with mental retardation, a developmental disability, or chronic mental illness, the individual case management services provider shall be responsible for making referrals and coordinating workers as specified in the individual program plan.

**130.6(4)** Enter information to the service reporting system.

**130.6(5)** Monitor the case to ensure that eligibility continues, services are received, plans are adjusted as needed, services reporting system reporting is correct, and the case is canceled when appropriate, according to these rules.

**130.6(6)** Ensure that services are unavailable elsewhere without cost to the client.

This rule is intended to implement Iowa Code section 234.6.

**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—paragraph 170.2(3)*"d."* 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.

When individual case management services are being provided under 441—Chapter 24 for persons with mental retardation, a developmental disability, or chronic mental illness, the rules in 441—Chapter 24 on time limits, plan format and on who develops the plan shall apply for adults and for children whose services are not under court jurisdiction. The department worker shall determine eligibility for those services provided by the department; however, a separate department case plan need not be developed. If the individual program plan does not include sufficient information to meet department service requirements or the requirements in this chapter, the person providing department social casework shall complete either a case plan or addendum and coordinate distribution to the persons who receive the individual program plan with the case manager.

The case plan shall become part of the client's case record. The client shall participate in the development of this plan to the extent possible. The case plan shall be consistent with other service or program plans. A copy of the case plan shall be provided to the client, or when indicated, to the parent or representative of the client. For adult services the case plan shall be recorded using Form SS-0607-0, Individual Client Case Plan. For children's services the case plan shall be known as the case permanency plan and shall be prepared using Forms 427-1020, Case Permanency Plan Face Sheet, 427-1021, Case Permanency Plan Review, 427-1022, Case Permanency Plan Initial Assessment, and 427-1023, Case Permanency Plan Problem and Responsibility List; or Forms 427-1020, Case Permanency Plan Face Sheet and 470-2921, Emergency Placement Document for Goal of Family Reunification.

**130.7(1)** Services shall be directed toward the social services block grant goals of:

*a.* Achieving or maintaining self-support to prevent, reduce or eliminate dependency.

*b.* Achieving or maintaining self-sufficiency, including reduction or prevention of dependency.

*c.* Preventing or remedying neglect, abuse or exploitation of children or adults unable to protect their own interest, or preserving, rehabilitating or reuniting families.

*d.* Preventing or reducing inappropriate institutional care by providing for community-based care, home-based care, or other forms of less intensive care.

*e.* Securing referral or admission for institutional care when other forms of care are not appropriate, or providing services to individuals in institutions.

**130.7(2)** The recorded case plan shall contain, but not be limited to, the following:

*a.* The goal and objective to which the plan is directed, stated in a clear manner indicating the specific services required to achieve or maintain the goals to meet the needs of the particular client.

*b.* Activities of clients, workers, and others involved in the plan related to specific services. These shall be measurable and have time frames for completion.

*c.* A summary of all pertinent information relating to the client and the client's situation relative to need, and containing, but not limited to, the following:

(1) Emotional behavior.

(2) Social aspects.

(3) Historical perspective.

(4) Reasons for success or lack of success.

*d.* Information on case entries that will substantiate the client's eligibility for service.

*e.* A target date for reevaluation of the case plan based on assessment of need, which shall not exceed six months.

*f.* A review of financial eligibility in accordance with 130.2(5).

*g.* The reason for termination or reduction of any or all services.

*h.* Rescinded IAB 8/9/89, effective 10/1/89.

**130.7(3)** The case plan shall be developed and filed in the case record before services begin unless:

*a.* The department receives judicial notice that services have been court-ordered. The date of this notice shall be stated on Form 427-1022. The case plan shall be filed within 45 days from the date the notice is received or within 60 days from the date the child entered foster care, whichever is the earlier date. If the service ends before 30 days the minimum case plan requirement for children's services is completion of Form 427-1020, Face Sheet and of Form 470-2921, Emergency Placement Document for Goal of Family Reunification. Assessment shall begin at the time of the notice.

*b.* An unanticipated provision of service is provided for the protection and well-being of a client. Assessment shall begin immediately. The case plan shall be filed within 45 days from the date services are initiated or within 60 days from the date the child entered foster care, whichever is the earlier date. If the service ends before 30 days the minimum case plan requirement for children's services is completion of Form 427-1020, Face Sheet and of Form 470-2921, Emergency Placement Document for Goal of Family Reunification.

**130.7(4)** The reevaluation of the case plan shall include all components listed under 130.7(2) and shall be filed at least every six months, or more often when there are significant changes, when required by the court, or when required according to the rules of the service.

**130.7(5)** The case plan may be amended between evaluation periods. Participants in the plan shall receive a copy of the amendment.

This rule is intended to implement Iowa Code section 234.6 and 1984 Iowa Acts, chapter 1310, section 3.

**441—130.8 Monitoring and evaluation.** Rescinded IAB 12/13/89, effective 2/1/90.

**441—130.9(234) Entitlement.** Except as provided for rehabilitative treatment services, there is no automatic right to ongoing service in any service category from one fiscal year to the next.

This rule is intended to implement Iowa Code section 234.6.

[Filed 2/19/76, Notice 1/12/76—published 3/8/76, effective 4/12/76]
[Filed emergency 6/30/76—published 7/26/76, effective 7/1/76]
[Filed 9/29/76, Notice 8/23/76—published 10/20/76, effective 11/24/76]
[Filed 12/9/76, Notice 11/3/76—published 12/29/76, effective 2/2/77]
[Filed 6/10/77, Notice 5/4/77—published 6/29/77, effective 8/3/77]
[Filed 9/28/77, Notice 8/10/77—published 10/19/77, effective 11/23/77]
[Filed 10/24/77, Notice 9/7/77—published 11/16/77, effective 12/21/77]
[Filed 5/8/78, Notice 3/22/78—published 5/31/78, effective 7/5/78]
[Filed without Notice 11/7/78—published 11/29/78, effective 1/3/79]
[Filed 11/20/78, Notice 10/4/78—published 12/13/78, effective 1/17/79]
[Filed 2/7/79, Notice 12/27/78—published 2/21/79, effective 3/28/79]
[Filed emergency after Notice 6/29/79, Notice 4/4/79—published 6/27/79, effective 7/1/79]
[Filed emergency 12/5/79—published 12/26/79, effective 12/5/79]
[Filed 4/4/80, Notice 12/26/79—published 4/30/80, effective 6/4/80]
[Filed 5/5/80, Notice 2/20/80—published 5/28/80, effective 7/2/80]
[Filed 6/4/80, Notice 4/2/80—published 6/25/80, effective 7/30/80]
[Filed 9/26/80, Notice 8/6/80—published 10/15/80, effective 12/1/80]
[Filed emergency 10/23/80—published 11/12/80, effective 10/23/80]
[Filed 10/23/80, Notice 9/3/80—published 11/12/80, effective 12/17/80]
[Filed 1/16/81, Notice 12/10/80—published 2/4/81, effective 3 /11/81]
[Filed emergency 6/23/81 after Notices 2/4/81, 3/4/81—published 7/22/81, effective 7/1/81]
[Filed 6/30/81, Notice 5/13/81—published 7/22/81, effective 10/1/81]
[Filed 4/5/82, Notice 10/14/81—published 4/28/82, effective 7/1/82]
[Filed 4/29/82, Notice 3/17/82—published 5/26/82, effective 7/1/82]
[Filed emergency 5/21/82—published 6/9/82, effective 7/1/82]

[Filed emergency 1/14/83—published 2/2/83, effective 2/1/83]
[Filed 4/21/83, Notice 2/16/83—published 5/11/83, effective 7/1/83]
[Filed 4/21/83, Notice 3/2/83—published 5/11/83, effective 7/1/83]
[Filed emergency 6/17/83—published 7/6/83, effective 7/1/83]
[Filed emergency 9/26/83—published 10/12/83, effective 9/26/83]
[Filed 12/16/83, Notice 10/26/83—published 1/4/84, effective 3/1/84]
[Filed 4/2/84, Notice 2/1/84—published 4/25/84, effective 6/1/84]
[Filed emergency 6/15/84—published 7/4/84, effective 7/1/84]
[Filed 6/15/84, Notice 4/25/84—published 7/4/84, effective 9/1/84]
[Filed emergency 8/31/84—published 9/26/84, effective 10/1/84]
[Filed emergency 12/11/84—published 1/2/85, effective 1/1/85]
[Filed emergency 6/14/85—published 7/3/85, effective 7/1/85]
[Filed 7/26/85, Notice 5/22/85—published 8/14/85, effective 11/1/85]
[Filed 11/15/85, Notice 10/9/85—published 12/4/85, effective 2/1/86]
[Filed emergency 12/2/85—published 12/18/85, effective 1/1/86]
[Filed emergency 12/22/86—published 1/14/87, effective 1/1/87]
[Filed emergency 1/15/87—published 2/11/87, effective 1/15/87]
[Filed emergency 6/19/87—published 7/15/87, effective 7/1/87]
[Filed emergency 12/10/87—published 12/30/87, effective 1/1/88]
[Filed emergency after Notice 3/18/88, Notice 1/13/88—published 4/6/88, effective 4/15/88]
[Filed emergency 6/9/88—published 6/29/88, effective 7/1/88]
[Filed 9/1/88, Notice 6/29/88—published 9/21/88, effective 11/1/88]
[Filed emergency 12/8/88—published 12/28/88, effective 1/1/89]
[Filed 5/12/89, Notice 2/8/89—published 5/31/89, effective 8/1/89]
[Filed emergency 6/8/89—published 6/28/89, effective 7/1/89]
[Filed 7/14/89, Notice 4/19/89—published 8/9/89, effective 10/1/89]
[Filed 8/17/89, Notice 6/28/89—published 9/6/89, effective 11/1/89]
[Filed 9/15/89, Notice 8/9/89—published 10/4/89, effective 12/1/89]
[Filed emergency 11/16/89—published 12/13/89, effective 1/1/90]
[Filed 11/16/89, Notice 9/20/89—published 12/13/89, effective 2/1/90]
[Filed 2/16/90, Notice 12/13/89—published 3/7/90, effective 5/1/90]
[Filed emergency 6/14/90—published 7/11/90, effective 7/1/90]
[Filed 6/14/90, Notice 4/18/90—published 7/11/90, effective 9/1/90]
[Filed 8/16/90, Notice 7/11/90—published 9/5/90, effective 11/1/90]
[Filed emergency 12/13/90—published 1/9/91, effective 1/1/91]
[Filed 2/15/91, Notice 1/9/91—published 3/6/91, effective 5/1/91]
[Filed emergency 6/14/91—published 7/10/91, effective 7/1/91]
[Filed 6/14/91, Notice 5/1/91—published 7/10/91, effective 9/1/91]
[Filed emergency 10/10/91—published 10/30/91, effective 11/1/91]
[Filed emergency 12/11/91—published 1/8/92, effective 1/1/92]
[Filed 12/11/91, Notice 10/30/91—published 1/8/92, effective 3/1/92]
[Filed 1/15/92, Notice 11/27/91—published 2/5/92, effective 4/1/92]
[Filed 2/13/92, Notice 1/8/92—published 3/4/92, effective 5/1/92]
[Filed 3/12/92, Notice 2/5/92—published 4/1/92, effective 5/6/92]
[Filed emergency 6/12/92—published 7/8/92, effective 7/1/92]
[Filed 8/14/92, Notices 7/8/92◊—published 9/2/92, effective 11/1/92]

◊Two ARCs

[Filed emergency 2/10/93 after Notice 1/6/93—published 3/3/93, effective 3/1/93]
[Filed emergency 6/11/93—published 7/7/93, effective 7/1/93]
[Filed 7/14/93, Notice 3/3/93—published 8/4/93, effective 10/1/93]
[Filed 8/12/93, Notice 7/7/93—published 9/1/93, effective 11/1/93]
[Filed without Notice 8/12/93—published 9/1/93, effective 11/1/93]
[Filed emergency 10/14/93—published 11/10/93, effective 12/1/93]
[Filed 12/16/93, Notices 9/1/93, 11/10/93—published 1/5/94, effective 3/1/94]
[Filed emergency 6/16/94—published 7/6/94, effective 7/1/94]
[Filed 8/12/94, Notice 7/6/94—published 8/31/94, effective 11/1/94]
[Filed emergency 9/15/94—published 10/12/94, effective 10/1/94]
[Filed 2/16/95, Notice 10/12/94—published 3/15/95, effective 5/1/95]
[Filed emergency 6/7/95—published 7/5/95, effective 7/1/95]
[Filed 8/10/95, Notice 7/5/95—published 8/30/95, effective 11/1/95]
[Filed emergency 6/13/96—published 7/3/96, effective 7/1/96]
[Filed emergency 7/10/96—published 7/31/96, effective 8/1/96]
[Filed 9/17/96, Notices 7/3/96, 7/31/96—published 10/9/96, effective 12/1/96]
[Filed emergency 6/12/97—published 7/2/97, effective 7/1/97]
[Filed 8/13/97, Notice 7/2/97—published 9/10/97, effective 11/1/97]
[Filed 9/16/97, Notice 7/16/97—published 10/8/97, effective 12/1/97]
[Filed emergency 6/10/98—published 7/1/98, effective 7/1/98]
[Filed without Notice 6/10/98—published 7/1/98, effective 8/15/98]
[Filed 8/12/98, Notice 7/1/98—published 9/9/98, effective 11/1/98]
[Filed emergency 6/10/99—published 6/30/99, effective 7/1/99]

*k. Capital asset use allowance (depreciation) schedule.* The Capital Asset Use Allowance Schedule shall be prepared using the guidelines for provider reimbursement in the Medicare and Medicaid Guide, December 1981.

*l. The following expenses shall not be allowed:*

(1) Fees paid directors and nonworking officers' salaries.

(2) Bad debts.

(3) Entertainment expenses.

(4) Memberships in recreational clubs, paid for by an agency (country clubs, dinner clubs, health clubs, or similar places) which are primarily for the benefit of the employees of the agency.

(5) Legal assistance on behalf of clients.

(6) Costs eligible for reimbursement through the medical assistance program.

(7) Food and lodging expenses for personnel incurred in the city or immediate area surrounding the personnel's residence or office of employment, except when the specific expense is required by the agency and documentation is maintained for audit purposes. Food and lodging expenses incurred as part of programmed activities on behalf of clients, their parents, guardians, or consultants are allowable expenses when documentation is available for audit purposes.

(8) Business conferences and conventions. Meeting costs of an agency which are not required in licensure.

(9) Awards and grants to recognize board members and community citizens for achievement. Awards and grants to clients as part of treatment program are reimbursable.

(10) Survey costs when required certification is not attained.

(11) Federal and state income taxes.

*m. Limited service—without a ceiling.* The following expenses are limited for service without a ceiling established by administrative rule or law for that service. This includes services with maximum rates, with the exception of foster group care and shelter care.

(1) Moving and recruitment are allowed as a reimbursable cost only to the extent allowed for state employees. Expenses incurred for placing advertising for purposes of locating qualified individuals for staff positions are allowed for reimbursement purposes.

(2) and (3) Rescinded IAB 5/18/88, effective May 1, 1988.

(4) Costs for participation in educational conferences are limited to 3 percent of the agency's actual salary costs, less excluded or limited salary costs as recorded on the financial and statistical report.

(5) Costs of reference publications and subscriptions for program-related materials are limited to $500 per year.

(6) Memberships in professional service organizations are allowed to the extent they do not exceed one-half of 1 percent of the total salary costs less excluded salary costs.

(7) In-state travel costs for mileage and per diem expenses are allowable to the extent they do not exceed the maximum mileage and per diem rates for state employees for travel in the state.

(8) Reimbursement for air travel shall not exceed the lesser of the minimum commercial rate or the rate allowed for mileage in subparagraph (7) above.

(9) The maximum reimbursable salary for the agency administrator or executive director charged to purchase of service is $40,000 annually.

(10) Annual meeting costs of an agency which are required in licensure are allowed to the extent required by licensure.

*n. Limited service—with a ceiling.* The following expenses are limited for services with a ceiling established by administrative rule or law for that service. This includes shelter care.

(1) The maximum reimbursable compensation for the agency administrator or executive director charged to purchase of service annually is $40,000.

(2) Annual meeting costs of an agency which are required for licensure are allowed to the extent required by licensure.

*o. Establishment of ceiling and reimbursement rate.*

(1) The maximum allowable rate ceiling applicable to each service is found in the rules for that particular service.

(2) When a ceiling exists, the reimbursement rate shall be established by determining on a per unit basis the allowable cost plus the current cost adjustment subject to the maximum allowable cost ceiling.

*p. Rate limits.* Interruptions in service programs will not affect the rate. If an agency assumes the delivery of service from another agency, the rate shall remain the same as for the former agency.

(1) Unless otherwise provided for in 441—Chapter 156, rates for shelter care shall not exceed $79.70 per day based on a 365-day year.

(2) For the fiscal year beginning July 1, 1999, the maximum reimbursement rates for services provided under a purchase of social service agency contract (adoption; local purchase services including adult day care, adult support, adult residential, 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, 1999, except under any of the following circumstances:

1. If a new service was added after June 30, 1999, 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.

3. For the fiscal year beginning July 1, 1999, the combined service and maintenance reimbursement rate paid to a shelter care provider shall be based on the financial and statistical report submitted to the department. The maximum reimbursement rate shall be $79.70 per day. If the department reimburses the provider at less than the maximum rate, but the provider's cost report justifies a rate of at least $79.70, the department shall readjust the provider's reimbursement rate to the actual and allowable cost plus the inflation factor or $79.70, whichever is less.

4. Rescinded IAB 6/30/99, effective 7/1/99.

5. For the fiscal year beginning July 1, 1999, the purchase of service reimbursement rate for adoption and independent living services shall be increased by 2 percent of the rates in effect on June 30, 1999.

*q. Related party costs.* Direct and indirect costs applicable to services, facilities, equipment, and supplies furnished to the provider by organizations related to the provider are includable in the allowable cost of the provider at the cost to the related organization. All costs allowable at the provider level are also allowable at the related organization level, unless these related organization costs are duplicative of provider costs already subject to reimbursement.

(1) Allowable costs shall be all actual direct and indirect costs applying to any service or item interchanged between related parties, such as capital use allowance (depreciation), interest on borrowed money, insurance, taxes, and maintenance costs.

(2) When the related party's costs are used as the basis for allowable rental or supply costs, the related party shall supply documentation of these costs to the provider. The provider shall complete a schedule displaying amount paid to related parties, related party cost, and total amount allowable. The resulting costs shall be allocated according to policies in 150.3(5)*"a"*(3) to (7).

Financial and statistical records shall be maintained by the related party under the provisions in 150.3(3)*"k."*

(3) Tests for relatedness shall be those specified in rule 441—150.1(234) and 150.3(3)*"o."* The department or the purchase of service fiscal consultant shall have access to the records of the provider and landlord or supplier to determine if relatedness exists. Applicable records may include financial and accounting records, board minutes, articles of incorporation, and list of board members.

*r. Day care increase.* Rescinded IAB 7/7/93, effective 7/1/93.

*s. Interest on unpaid invoices.* Any invoice that remains unpaid after 60 days following the receipt of a valid claim is subject to the payment of interest. The rate of interest is 1 percent per month beyond the 60-day period, on a simple interest basis. A separate claim for the interest is to be generated by the agency. If the original claim was paid with both federal and state funds, only that portion of the original claim paid with state funds will be subject to interest charges.

*t. Interest as an allowable cost.* Necessary and proper interest on both current and capital indebtedness is an allowable cost.

(1) "Interest" is the cost incurred for the use of borrowed funds. Interest on current indebtedness is the cost incurred for funds borrowed for a relatively short term. Interest on capital indebtedness is the cost incurred for funds borrowed for capital purposes.

(2) "Necessary" requires that the interest be incurred on a loan made to satisfy a financial need of the provider, be incurred on a loan made for a purpose reasonably required to operate a program, and be reduced by investment income except where the income is from gifts and grants whether restricted or unrestricted, and which are held separate and not commingled with other funds.

(3) "Proper" requires that interest be incurred at a rate not in excess of what a prudent borrower would have had to pay in the money market on the date the loan was made, and be paid to a lender not related through control or ownership to the borrowing organization.

*u.* *Rate formula.* Paragraph 150.3(5)*"p"* notwithstanding, when rates are determined based on cost of providing the service involved, they will be calculated according to the following mathematical formula:

$$\frac{\text{Net allowable expenditures}}{\text{Effective utilization level}} \times \text{Reimbursement factor} = \text{Base Rate}$$

(1) Net allowable expenditures are those expenditures attributable to service to clients which are allowable as set forth in subrule 150.3(5), paragraphs *"a"* to *"t."*

(2) Effective utilization level shall be 80 percent or actual (whichever is greater) of the licensed or staffed capacity (whichever is less) of the program.

(3) Inflation factor is the percentage which will be applied to develop payment rates consistent with current policy and funding of the department. The inflation factor is intended to overcome the time lag between the time period for which costs were reported and the time period during which the rates will be in effect. The inflation factor shall be the amount by which the Consumer Price Index for all urban consumers increased during the preceding calendar year ending December 31.

(4) Base rate is the rate which is developed independent of any limits which are in effect. Actual rates paid are subject to applicable limits or maximums.

*v.* Rescinded IAB 5/13/92, effective 4/16/92.

**150.3(6)** *Client eligibility and referral.*

*a.* Program eligibility. To receive services through the purchase of service system, clients shall be determined eligible and be formally referred by the department. The department shall not make payment for services provided prior to the client's application, eligibility determination, and referral. See *"b"* below for an exception to this rule.

The following forms shall be used by the department to authorize services:

Form SS-1701-0, Referral of Client for Purchase of Social Services.

Form SS-2611-0, Placement Agreement: Child Placing or Child Caring Agency (Provider).

*b.* When a court orders foster care and the department has no responsibility for supervision or placement of the client, the department will pay the rate established by these rules for maintenance and service provided by the facility.

**150.3(7)** *Client fees.* The provider shall agree not to require any fee for service from departmental clients unless a fee is required by the department and is consistent with federal regulation and state policy. Rules governing client fees are found in 441—130.4(234).

The provider shall collect fees due from clients. The provider shall maintain records of fees collected, and these records shall be available for audit by the department or its representative. When a client does not pay the fee, the provider shall demonstrate that a reasonable effort has been made to collect the fee. Reasonable effort to collect means an original billing and two follow-up notices of nonpayment. When the second notice of nonpayment is sent, the provider shall send a copy of the notice to the department worker.

**441—150.8(234) Provider advisory committee.** The provider advisory committee serves in an advisory capacity to the department, specifically to the purchase of service section. The provider advisory committee is composed of representatives from member provider associations as appointed by the respective associations. Individual representatives from provider agencies having a purchase of service contract but not belonging to an association may become members of the provider advisory committee upon simple majority vote of the committee members at a meeting. A representative of the purchase of service fiscal consultant is a nonvoting member. Departmental representatives from the purchase of service section, the division of community services, the division of social services, and the division of mental health/mental retardation/developmental disabilities are also nonvoting members.

**441—150.9(234) Public access to contracts.** Subject to applicable federal and state laws and regulations on confidentiality including 441—Chapter 9, all material submitted to the department of human services pursuant to this chapter shall be considered public information.

These rules are intended to implement Iowa Code section 234.6 and 1999 Iowa Acts, House File 760, section 33, subsections 6, 8, and 9.

**441—150.10** to **441—150.20** Reserved.

DIVISION II
PURCHASE OF SOCIAL SERVICES CONTRACTING ON BEHALF OF COUNTIES FOR LOCAL PURCHASE SERVICES FOR ADULTS WITH MENTAL ILLNESS, MENTAL RETARDATION, AND DEVELOPMENTAL DISABILITIES

PREAMBLE

In order for the counties to fulfill their duties pursuant to the approved county management plans, counties must have service agreements with providers of mental health, mental retardation and developmental disabilities services. The Iowa State Association of Counties has requested the assistance of the department in negotiating contracts on behalf of the counties. The following rules set forth the terms and conditions for contracting that will be used by the department when contracting on behalf of counties with providers of local purchase services for adults with mental illness, mental retardation and developmental disabilities.

The department, within the limits of current resources, will negotiate contracts on behalf of counties beginning July 1, 1997. The initial contracts will be negotiated by amending the existing purchase of social service agency contract, using Form SS-1503-0, Amendment or Renewal of Iowa Purchase of Services Agency Contract, to reflect the contractual relationship between the provider and the counties. The amendment will be effective for the time period ending June 30, 1998.

**441—150.21(234) Definitions.**

*"Accounting year"* means a 12-consecutive-month period for which accounting records are maintained. It can be either a calendar year or another designated fiscal year.

*"Accrual basis accounting"* means the accounting basis which shows all expenses incurred and income earned for a given time even though the expenses may not have been paid or income received in cash during the period.

*"Agency"* means an organization or organizational unit that provides social services.

1. Public agency means a general or special-purpose unit of government and organizations administered by that unit to deliver social services, for example, county boards of supervisors, community colleges, and state agencies.

2. Private nonprofit agency means a voluntary agency operated under the authority of a board of directors for purposes other than generating profit and incorporated under Iowa Code chapter 504A. An out-of-state agency must meet requirements of similar laws governing nonprofit organizations in its state.

3. Private proprietary agency means a for-profit agency operated by an owner or board for the operator's financial benefit.

*"Bureau of purchased services"* means a bureau within the division of policy coordination, which is responsible for administering the purchase of service system.

*"Cash basis accounting"* means the accounting basis which records expenses when bills are paid and income when money is received.

*"Ceiling"* means the maximum limit for payment for a service which has been established by an administrative rule or by the Iowa Code specifically for that service.

*"Client"* means an individual or family group who has applied for and been found to be eligible for social services from the Iowa department of human services.

*"Common ownership"* means that relationship existing when an individual or individuals possess significant ownership or equity in the provider and the institution or organization serving the provider.

*"Components of service"* means the elements or activities that make up a specific service.

*"Contract"* means formal written agreement between the Iowa department of human services and another legal entity, except for those government agencies whose services are covered under provision of Iowa Code chapter 28E.

*"Contractor"* means an institution, organization, facility or individual who is a legal entity and has entered into a contract with the department of human services.

*"Control"* means that relationship existing where an individual or an organization has the power, directly or indirectly, significantly to influence or direct the actions or policies of an organization or institution.

*"Department"* means the Iowa department of human services.

*"Direct cost"* means those expenses which can be identified specifically and solely to a particular program.

*"Effective date."*

1. Contract effective date for agency contracts means the first day of a month on which the contract shall become in force.

2. Effective date of rate means the date specified in a purchase of service contract on which the specified rate of payment for service provided begins.

*"Grant"* means an award of funds to develop specific programs or achieve specific outcomes.

*"Indirect cost"* means those expenses which cannot be related directly to a specific program and are, therefore, allocated to more than one program.

*"Project manager"* means a department employee who is assigned to assist in developing, monitoring and evaluating a contract and to provide related technical assistance.

*"Provider"* means an institution, organization, facility, or individual who is a legal entity and has entered into a contract with the department to provide social services to clients of the department.

(9) Awards and grants to recognize board members and community citizens for achievement. Awards and grants to clients as part of treatment program are reimbursable.

(10) Survey costs when required certification is not attained.

(11) Federal and state income taxes.

*m. Limited service—without a ceiling.* The following expenses are limited for service without a ceiling established by administrative rule or law for that service. This includes services with maximum rates, with the exception of foster group care and shelter care.

(1) Moving and recruitment are allowed as a reimbursable cost only to the extent allowed for state employees. Expenses incurred for placing advertising for purposes of locating qualified individuals for staff positions are allowed for reimbursement purposes.

(2) Costs for participation in educational conferences are limited to 3 percent of the agency's actual salary costs, less excluded or limited salary costs as recorded on the financial and statistical report.

(3) Costs of reference publications and subscriptions for program-related materials are limited to $500 per year.

(4) Memberships in professional service organizations are allowed to the extent they do not exceed one-half of 1 percent of the total salary costs less excluded salary costs.

(5) In-state travel costs for mileage and per diem expenses are allowable to the extent they do not exceed the maximum mileage and per diem rates for state employees for travel in the state.

(6) Reimbursement for air travel shall not exceed the lesser of the minimum commercial rate or the rate allowed for mileage in subparagraph (5) above.

(7) The maximum reimbursable salary for the agency administrator or executive director charged to purchase of service is $40,000 annually.

(8) Annual meeting costs of an agency which are required in licensure are allowed to the extent required by licensure.

*n. Limited service—with a ceiling.* The following expenses are limited for services with a ceiling established by administrative rule or law for that service.

(1) The maximum reimbursable compensation for the agency administrator or executive director charged to purchase of service annually is $40,000.

(2) Annual meeting costs of an agency which are required for licensure are allowed to the extent required by licensure.

*o. Establishment of ceiling and reimbursement rate.*

(1) The maximum allowable rate ceiling applicable to each service is found in the rules for that particular service.

(2) When a ceiling exists, the reimbursement rate shall be established by determining on a per unit basis the allowable cost plus the current cost adjustment subject to the maximum allowable cost ceiling.

*p. Rate limits.* Interruptions in service programs will not affect the rate. If an agency assumes the delivery of service from another agency, the rate shall remain the same as for the former agency.

(1) For the fiscal year beginning July 1, 1999, the maximum reimbursement rates for local purchase services, including adult day care, adult support, adult residential, community supervised apartment living arrangement, sheltered work, work activity, and transportation shall be the same as the rates in effect on June 30, 1999, except under any of the following circumstances:

1. If a new service was added after June 30, 1999, 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 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.

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.

(2) Rescinded IAB 6/30/99, effective 7/1/99.

*q. Related party costs.* Direct and indirect costs applicable to services, facilities, equipment, and supplies furnished to the provider by organizations related to the provider are includable in the allowable cost of the provider at the cost to the related organization. All costs allowable at the provider level are also allowable at the related organization level, unless these related organization costs are duplicative of provider costs already subject to reimbursement.

(1) Allowable costs shall be all actual direct and indirect costs applying to any service or item interchanged between related parties, such as capital use allowance (depreciation), interest on borrowed money, insurance, taxes, and maintenance costs.

(2) When the related party's costs are used as the basis for allowable rental or supply costs, the related party shall supply documentation of these costs to the provider. The provider shall complete a schedule displaying amount paid to related parties, related party cost, and total amount allowable. The resulting costs shall be allocated according to policies in subparagraphs 150.22(7)*"a"*(3) to (7).

Financial and statistical records shall be maintained by the related party under the provisions in paragraph 150.22(5)*"k."*

(3) Tests for relatedness shall be those specified in rule 441—150.21(234) and paragraph 150.22(5)*"o."* Authorized department or county personnel, the purchase of service fiscal consultant, and state, county, or federal audit personnel shall have access to the records of the provider and landlord or supplier to determine if relatedness exists. Applicable records may include financial and accounting records, board minutes, articles of incorporation, and list of board members.

*r. Interest as an allowable cost.* Necessary and proper interest on both current and capital indebtedness is an allowable cost.

(1) "Interest" is the cost incurred for the use of borrowed funds. Interest on current indebtedness is the cost incurred for funds borrowed for a relatively short term. Interest on capital indebtedness is the cost incurred for funds borrowed for capital purposes.

(2) "Necessary" requires that the interest be incurred on a loan made to satisfy a financial need of the provider, be incurred on a loan made for a purpose reasonably required to operate a program, and be reduced by investment income except where the income is from gifts and grants whether restricted or unrestricted, and which are held separate and not commingled with other funds.

(3) "Proper" requires that interest be incurred at a rate not in excess of what a prudent borrower would have had to pay in the money market on the date the loan was made, and be paid to a lender not related through control or ownership to the borrowing organization.

*s.* *Rate formula.* Paragraph 150.22(7)*"p"* notwithstanding, when rates are determined based on cost of providing the service involved, they will be calculated according to the following mathematical formula:

$$\frac{\text{Net allowable expenditures}}{\text{Effective utilization level}} \times \text{Reimbursement factor} = \text{Base Rate}$$

(1) Net allowable expenditures are those expenditures attributable to service to clients which are allowable as set forth in subrule 150.22(7), paragraphs *"a"* to *"r."*

(2) Effective utilization level shall be 80 percent or actual (whichever is greater) of the licensed or staffed capacity (whichever is less) of the program.

(3) Inflation factor is the percentage which will be applied to develop payment rates consistent with current policy and funding of the department. The inflation factor is intended to overcome the time lag between the time period for which costs were reported and the time period during which the rates will be in effect. The inflation factor shall be the amount by which the Consumer Price Index for all urban consumers increased during the preceding calendar year ending December 31.

(4) Base rate is the rate which is developed independent of any limits which are in effect. Actual rates paid are subject to applicable limits or maximums.

**150.22(8)** *Client eligibility and referral.* To receive services through the purchase of service system, clients shall be determined eligible and be formally referred by the county. The county is not obligated to make payment for services provided prior to the client's application, eligibility determination, and referral.

The following forms shall be used by the county to authorize services:

Form SS-1701-0, Referral of Client for Purchase of Social Services, or the process authorized by the referring county.

**150.22(9)** *Client fees.* The provider shall agree not to require any fee for service from clients referred pursuant to the contract unless a fee is required by the referring county and is consistent with federal and state regulation.

The provider shall collect fees due from clients, if requested by the referring county. The provider shall maintain records of fees collected, and these records shall be available for audit by the referring county or its representative. When a client does not pay the fee, the provider shall demonstrate that a reasonable effort has been made to collect the fee. Reasonable effort to collect means an original billing and two follow-up notices of nonpayment. When the second notice of nonpayment is sent, the provider shall send a copy of the notice to the central point of coordination or designee.

**150.22(10)** *Billing procedures.* At the end of each month the provider agency shall prepare Form AA-2241-0, Purchase of Service Provider Invoice, or the form agreed upon between the provider and the referring county, for contractual services provided by the agency during the month.

Separate invoices shall be prepared for each county from which clients were referred. Complete invoices shall be sent to the county responsible for the client for approval and forwarding for payment. More frequent billings may be permitted on an exception basis by the referring county.

*a.* *Time limit for submitting vouchers, invoices, or claims.* The time limit for submission of original vouchers, invoices, or claims shall be three months from the date of service.

*b.* *Resubmittals of rejected claims.* Valid claims which were originally submitted within the time limit specified in paragraph *"a"* but were rejected because of an error shall be resubmitted without regard to time frames.

**150.22(11)** *Review of actions.* A provider who is adversely affected by a departmental decision may request a review by the department. A review request may cause the action to be stopped pending the outcome of the review, except in cases where it can be documented that to do so would be detrimental to the health and welfare of clients. The procedure for review is:

*a.* The provider shall send a written request for review to the project manager responsible for the contract within 10 days of receipt of the decision in question. This request shall document the specific area in question and the remedy desired. The project manager shall provide a written response within 10 days.

*b.* When dissatisfied with the response, the provider shall submit to the regional administrator within 10 days the original request, the response received, and any additional information desired. The regional administrator shall study the concerns and the action taken, and render a decision in writing within 14 days. A meeting with the provider may be held to clarify the situation.

*c.* If still dissatisfied, the provider may within 10 days request a review by the chief of the bureau of purchased services. The request for review should include copies of material from paragraphs *"a"* and *"b"* above. The bureau chief shall review the issues and positions of the parties involved and provide a written decision within 14 days. A meeting may be held with the provider, project manager, and regional administrator or designee.

*d.* The provider may appeal this decision within 10 days to the director of the department, who shall issue the final department decision within 14 days.

The department shall notify the applicable counties of any request for review and the decision reached in response to the request.

A provider who is adversely affected by a county decision may request a review in accordance with procedures established by the county pursuant to the approved county management plan.

**150.22(12)** *Review of financial and statistical reports.* The provider's general financial records shall be available for review by authorized department and county personnel, the purchase of service fiscal consultant, and state, county, and federal audit personnel. The purpose of the review is to determine if expenses reported for the purpose of establishing the rate have been handled as required under subrule 150.22(7). Representatives shall provide proper identification and shall use generally accepted auditing principles. The reviews may include an on-site visit to the provider, the provider's central accounting office, the offices of the provider's agents, a combination of these, or, by mutual decision, to other locations.

**150.22(13)** *Notification of changes.* The provider shall, prior to implementation whenever possible, notify the assigned project manager of any changes in the provider's organization or delivery of service which may affect compliance with any terms and conditions of the contract. If prior notice is not possible, the provider shall notify the project manager within one working day of the change.

These rules are intended to implement Iowa Code section 234.6 and 1999 Iowa Acts, House File 760, section 33, subsection 6.

[Filed 2/25/77, Notice 6/14/76—published 3/23/77, effective 4/27/77]
[Filed 9/28/77, Notice 8/10/77—published 10/19/77, effective 11/23/77]
[Filed 1/16/78, Notice 11/30/77—published 2/8/78, effective 3/15/78]
[Filed emergency 2/28/78—published 3/22/78, effective 4/1/78]
[Filed 5/24/78, Notice 3/22/78—published 6/14/78, effective 7/19/78]
[Filed 9/23/82, Notice 8/4/82—published 10/13/82, effective 11/17/82]
[Filed 3/25/83, Notice 9/1/82—published 4/13/83, effective 7/1/83]
[Filed emergency 6/17/83—published 7/6/83, effective 7/1/83]
[Filed emergency 10/7/83—published 10/26/83, effective 11/1/83]
[Filed without Notice 10/7/83—published 10/26/83, effective 12/1/83]
[Filed 11/18/83, Notice 10/12/83—published 12/7/83, effective 2/1/84]
[Filed 12/16/83, Notice 11/9/83—published 1/4/84, effective 3/1/84]
[Filed emergency 2/10/84—published 2/29/84, effective 2/10/84]
[Filed emergency 6/15/84—published 7/4/84, effective 7/1/84]
[Filed emergency 8/31/84—published 9/26/84, effective 10/1/84]
[Filed 9/7/84, Notice 7/4/84—published 9/26/84, effective 11/1/84]
[Filed 5/29/85, Notice 3/27/85—published 6/19/85, effective 8/1/85]
[Filed emergency 6/14/85—published 7/3/85, effective 7/1/85]
[Filed emergency 10/1/85—published 10/23/85, effective 11/1/85]
[Filed without Notice 10/1/85—published 10/23/85, effective 12/1/85]
[Filed 12/2/85, Notice 10/23/85—published 12/18/85, effective 2/1/86]
[Filed emergency 3/21/86 after Notice 11/6/85—published 4/9/86, effective 4/1/86]
[Filed emergency 6/26/86—published 7/16/86, effective 7/1/86]
[Filed 12/22/86, Notice 10/22/86—published 1/14/87, effective 3/1/87]
[Filed emergency 1/15/87—published 2/11/87, effective 1/15/87]
[Filed emergency 6/19/87—published 7/15/87, effective 7/1/87]
[Filed 10/23/87, Notice 7/15/87—published 11/18/87, effective 1/1/88]
[Filed 11/25/87, Notice 9/23/87—published 12/16/87, effective 2/1/88]
[Filed emergency 4/22/88 after Notice 3/9/88—published 5/18/88, effective 5/1/88]
[Filed emergency 6/9/88—published 6/29/88, effective 7/1/88]
[Filed 12/8/88, Notice 7/13/88—published 12/28/88, effective 2/1/89]
[Filed emergency 6/9/89—published 6/28/89, effective 7/1/89]
[Filed 7/14/89, Notice 4/19/89—published 8/9/89, effective 10/1/89]
[Filed 8/17/89, Notice 6/28/89—published 9/6/89, effective 11/1/89]
[Filed emergency 6/20/90—published 7/11/90, effective 7/1/90]
[Filed 8/16/90, Notice 7/11/90—published 9/5/90, effective 11/1/90]
[Filed emergency 6/14/91—published 7/10/91, effective 7/1/91]
[Filed emergency 8/8/91—published 9/4/91, effective 9/1/91]
[Filed without Notice 8/8/91—published 9/4/91, effective 11/1/91]
[Filed 8/8/91, Notice 6/26/91—published 9/4/91, effective 11/1/91]
[Filed 9/18/91, Notice 7/10/91—published 10/16/91, effective 12/1/91]
[Filed 10/10/91, Notice 9/4/91—published 10/30/91, effective 1/1/92]

[Filed 12/11/91, Notice 10/16/91—published 1/8/92, effective 3/1/92]*
[Filed emergency 4/15/92—published 5/13/92, effective 4/16/92]
[Filed emergency 6/12/92—published 7/8/92, effective 7/1/92]
[Filed 8/14/92, Notice 7/8/92—published 9/2/92, effective 11/1/92]
[Filed 1/14/93, Notice 12/9/92—published 2/3/93, effective 4/1/93]
[Filed emergency 6/11/93—published 7/7/93, effective 7/1/93]
[Filed without Notice 8/12/93—published 9/1/93, effective 11/1/93]
[Filed 8/12/93, Notice 7/7/93—published 9/1/93, effective 11/1/93]
[Filed 9/17/93, Notice 7/21/93—published 10/13/93, effective 12/1/93]
[Filed 12/16/93, Notice 9/1/93—published 1/5/94, effective 3/1/94]
[Filed emergency 6/16/94—published 7/6/94, effective 7/1/94]
[Filed 12/15/94, Notices 7/6/94, 10/12/94—published 1/4/95, effective 3/1/95]
[Filed 4/13/95, Notice 2/15/95—published 5/10/95, effective 7/1/95]
[Filed emergency 6/7/95—published 7/5/95, effective 7/1/95]
[Filed 8/10/95, Notice 7/5/95—published 8/30/95, effective 11/1/95]
[Filed emergency 6/13/96—published 7/3/96, effective 7/1/96]
[Filed 8/15/96, Notice 7/3/96—published 9/11/96, effective 11/1/96]
[Filed emergency 6/12/97—published 7/2/97, effective 7/1/97]
[Filed 9/16/97, Notice 7/2/97—published 10/8/97, effective 12/1/97]
[Filed emergency 6/10/98—published 7/1/98, effective 7/1/98]
[Filed 8/12/98, Notice 7/1/98—published 9/9/98, effective 11/1/98]
[Filed emergency 6/10/99—published 6/30/99, effective 7/1/99]

*Effective date of 3/1/92 delayed until adjournment of the 1992 General Assembly by the Administrative Rules Review Committee at its meeting held February 3, 1992.

*"Substance abuse treatment supervisor"* means the same as defined in the substance abuse commission rule 643—3.1(125) as treatment supervisor.

*"Treatment foster parent"* means an individual who is licensed to provide foster care and is trained to provide behavioral management for children in therapeutic foster care.

*"Unearned income"* means any income which is not earned income and includes supplemental security income (SSI) and other funds available to a child residing in a foster care placement.

This rule is intended to implement Iowa Code section 234.39.

**441—156.2(234) Foster care recovery.** The department shall recover the cost of foster care provided by the department pursuant to the rules in this chapter and the rules in 441—Chapter 99, Division I, which establishes policies and procedures for the computation and collection of parental liability.

**156.2(1)** Funds shall be applied to the cost of foster care in the following order and each source exhausted before utilizing the next funding source:

*a.* Unearned income of the child.

*b.* Parental liability of the noncustodial parent.

*c.* Parental liability of custodial parent(s).

**156.2(2)** The department shall serve as payee to receive the child's unearned income. When a parent or guardian is not available or is unwilling to do so, the department shall be responsible for applying for benefits on behalf of a child placed in the care of the department. Until the department becomes payee, the payee shall forward benefits to the department. For voluntary foster care placements of children aged 18 and over, the child is the payee for the unearned income. The child shall forward these benefits, up to the actual cost of foster care, to the department.

**156.2(3)** The custodial parent shall assign child support payments to the department on Form CS-3104-0, Assignment of Support Payments-Foster Care.

**156.2(4)** Unearned income of a child and parental liability of the noncustodial parent shall be placed in an account from whence it shall be applied toward the cost of the child's current foster care and the remainder placed in an escrow account.

**156.2(5)** When a child has funds in escrow these funds may be used by the department to meet the current needs of the child not covered by the foster care payments and not prohibited by the source of the funds.

**156.2(6)** When the child leaves foster care, funds in escrow shall be paid to the custodial parent(s) or guardian or to the child when the child has attained the age of majority, unless a guardian has been appointed.

**156.2(7)** When a child who has unearned income returns home after the first day of a month, the remaining portion of the unearned income (based on the number of days in the particular month) shall be made available to the child and the child's parents, guardian or custodian, if the child is eligible for the unearned income while in the home of a parent, guardian or custodian.

This rule is intended to implement Iowa Code section 234.39.

**441—156.3(252C) Computation and assessment of parental liability.** Rescinded IAB 3/13/96, effective 5/1/96.

**441—156.4(252C) Redetermination of liability.** Rescinded IAB 3/13/96, effective 5/1/96.

**441—156.5(252C) Voluntary payment.** Rescinded IAB 3/13/96, effective 5/1/96.

**441—156.6(234) Rate of maintenance payment for foster family care.**

**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:

| Age of child | Daily rate |
|---|---|
| 0 through 5 | $13.79 |
| 6 through 11 | 14.54 |
| 12 through 15 | 16.28 |
| 16 and over | 16.32 |

**156.6(2)** *Out-of-state rate.* A monthly payment for care in a foster family home licensed or approved in another state shall be made to the foster family based on the rate schedule in effect in Iowa, except that the regional administrator or designee may authorize a payment to the foster family at the rate in effect in the other state if the child's family lives in that state and the goal is to reunite the child with the family.

**156.6(3)** *Mother and child in foster care.* When the child in foster care is a mother whose young child is in placement with her, the rate paid to the foster family shall be based on the daily rate for the mother according to the rate schedule in subrules 156.6(1) and 156.6(4) and for the child according to the rate schedule in subrule 156.6(1). The foster parents shall provide a portion of the young child's rate to the mother to meet the partial maintenance needs of the young child as defined in the case permanency plan.

**156.6(4)** *Difficulty of care payment.*

*a.* When foster parents provide care to a special needs child, the foster family shall be paid the basic maintenance rate plus $4.94 per day for extra expenses associated with the child's special needs.

*b.* When a foster family provides care to a sibling group of three or more children, an additional payment of $1 per day per child may be authorized for each nonspecial needs child in the sibling group.

*c.* When the foster family's responsibilities in the case permanency plan include providing transportation related to family or preplacement visits outside the community in which the foster family lives, the department worker may authorize an additional maintenance payment of $1 per day. Expenses over the monthly amount may be reimbursed with prior approval by the worker. Eligible expenses shall include the actual cost of the most reasonable passenger fare or gas.

*d.* When a treatment foster family provides care to a child receiving behavioral management services for children in therapeutic foster care pursuant to 441—subrule 185.62(3), the foster family shall be paid the basic maintenance rate plus $14.80 per day.

*e.* When a human services area administrator determines that a foster family is providing care comparable to behavioral management services for children in therapeutic foster care pursuant to 441—subrule 185.62(3), except that the placement is supervised by the department and the child's treatment plan is supervised by a physician, mental health professional, or mental retardation professional, the foster family shall be paid the basic maintenance rate plus $14.80 per day. Foster families receiving this difficulty of care payment shall meet the requirements as found in 441—paragraph 185.10(8)*"b."* If the human services area administrator determines that a foster family has been providing this level of care prior to November 1, 1993, and the department has been paying the foster family difficulty of care payments in excess of $14.80 per day, the foster family shall continue to receive the higher payment for the duration of the time the human services area administrator determines that the foster family is providing care comparable to that provided to a child receiving behavioral management services for children in therapeutic foster care.

If the review organization determines that the child has been receiving family foster care core three services prior to November 1, 1993, and if the foster family has been receiving difficulty of care payments in excess of $14.80 per day, the department shall continue to pay the foster family the higher payment for the duration of the time the review organization authorizes family foster care core three services.

*f.* The difficulty of care maintenance payment shall be reviewed every six months or earlier if the child's situation changes.

*g.* All maintenance payments, including difficulty of care payments, shall be documented on Form SS-2605-0, Foster Family Placement Contract.

**156.6(5)** *Payment method.* All maintenance payments to foster families supervised by the department or a licensed private child caring agency shall be made directly to the foster family by the department.

**156.6(6)** *Compliance transition period.* Rescinded IAB 6/9/93, effective 8/1/93.

This rule is intended to implement Iowa Code section 234.38 and 1999 Iowa Acts, House File 760, section 33, subsection 5.

**441—156.7(234) Purchase of family foster care services.**

**156.7(1)** *Types of services.* The department may develop a contract pursuant to 441—Chapter 152 with a child-placing agency licensed pursuant to rule 441—108.7(234) for any of the following family foster care services:

*a.* Family foster care supervision.

*b.* Family foster care treatment services.

*c.* Foster family home studies.

**156.7(2)** *Family foster care supervision.* Purchased family foster care supervision shall meet the following requirements:

*a.* Services shall be provided in accordance with rule 441—108.7(234) and shall include visits with the child and foster family at a minimum frequency of not less than one visit every 35 days.

*b.* Services shall:

(1) Occur on a face-to-face basis.

(2) Be directed toward the child and shall include the child or the foster family.

(3) Be delivered in whatever locations the referral worker's social casework findings indicate are appropriate to ensure that all reasonable efforts are being made to meet the child's needs.

*c.* The department shall determine when to refer a child to a private agency for family foster care supervision, and shall specify the maximum number of units and the duration of services authorized on Form 470-3055, Referral of Client for Rehabilitative Treatment and Supportive Services.

*d.* Units of service shall be provided in one-half hour increments.

*e.* Services shall be reimbursed for each billable unit of family foster care supervision authorized and delivered. The unit rate shall be determined according to the policies in rules 441—185.101(234) to 441—185.108(234).

*f.* The provider shall develop a service plan which meets the following requirements:

(1) The provider shall develop a service plan for each child receiving supervision services. The service plan shall be developed in collaboration with the referral worker, family, child, and foster parents unless the service plan contains documentation of the rationale for not involving one of these parties.

(2) Service plans shall be developed within 30 calendar days of initiating services. The provider shall document the dates and content of any collaboration on the service plan.

(3) Service plans shall describe the supervision service goals and objectives, the supervision services to be provided, and persons responsible for providing the supervision services.

(4) Each service plan shall identify the individual who will monitor the supervision services being provided to ensure that they continue to be necessary and consistent with the case permanency plan developed or modified by the referral worker.

(5) Each service plan shall be reviewed 90 calendar days from the initiation of services and every 90 calendar days thereafter for the duration of supervision services or when any changes to the case permanency plan are made. The person reviewing the plan shall sign and date each review. If the review determines that the service plan is inconsistent with the case permanency plan, the provider's service plan shall be revised to reflect case permanency plan expectations.

(6) The provider shall provide a copy of all service plans and plan reviews to the family and referral worker, unless otherwise ordered by the court.

*g.* The provider shall receive approval from the referral worker on Form 470-3055, Referral of Client for Rehabilitative and Supportive Services, before increasing the amount or duration of services beyond what was previously approved. Based on their ongoing assessment activities, providers may communicate family service needs they believe are not adequately addressed in the department case permanency plan at any time during their provision of services.

*h.* The provider shall prepare a written report of termination activities which identifies the reason for termination, date of termination, and the recommended action or referrals upon termination.

*i.* The provider shall maintain a confidential individual record for each child receiving supervision services. The record shall include the following:

(1) Case permanency plan as supplied by the referral worker.

(2) Documentation of billed services which shall include: the specific services rendered, the date and amount of time services were rendered, who rendered the services, the setting in which services were rendered, and updates describing the client's progress.

(3) All service plans and service plan reviews developed by the agency.

(4) Correspondence with the referral worker regarding changes in the case permanency plan or service plan or requests for approval of additional services and any relevant evaluation activities.

(5) Progress reports 90 calendar days after initiating services and every 90 calendar days thereafter which summarize progress and problems in achieving the goals and objectives of the service plan. The progress report shall be written in conjunction with the service plan review and shall be completed no more than 15 calendar days before the report is due or 15 calendar days after the report is due. The provider shall provide a copy of all detailed progress reports to the family and referral worker, unless otherwise ordered by the court.

(6) Termination reports.

[Filed emergency 2/10/84—published 2/29/84, effective 2/10/84]
[Filed emergency 6/15/84—published 7/4/84, effective 7/1/84]
[Filed 6/15/84, Notice 5/9/84—published 7/4/84, effective 9/1/84]
[Filed emergency 8/31/84—published 9/26/84, effective 10/1/84]
[Filed emergency 11/16/84—published 12/5/84, effective 12/1/84]
[Filed 1/21/85, Notice 12/5/84—published 2/13/85, effective 4/1/85]
[Filed 4/29/85, Notice 2/27/85—published 5/22/85, effective 7/1/85]
[Filed emergency 6/14/85—published 7/3/85, effective 7/1/85]
[Filed emergency 10/1/85—published 10/23/85, effective 11/1/85]
[Filed without Notice 10/1/85—published 10/23/85, effective 12/1/85]
[Filed 12/2/85, Notice 10/23/85—published 12/18/85, effective 2/1/86]
[Filed 12/12/85, Notice 10/9/85—published 1/1/86, effective 3/1/86]
[Filed emergency 6/26/86—published 7/16/86, effective 7/1/86]
[Filed emergency 1/15/87—published 2/11/87, effective 1/15/87]
[Filed emergency 6/19/87—published 7/15/87, effective 7/1/87]◊
[Filed 8/28/87, Notice 7/15/87—published 9/23/87, effective 11/1/87]◊
[Filed emergency 9/21/87—published 10/21/87, effective 9/22/87]
[Filed 10/23/87, Notice 7/15/87—published 11/18/87, effective 1/1/88]
[Filed 12/10/87, Notice 10/21/87—published 12/30/87, effective 3/1/88]
[Filed emergency 6/9/88—published 6/29/88, effective 7/1/88]
[Filed 4/13/89, Notice 1/11/89—published 5/3/89, effective 7/1/89]
[Filed emergency 6/9/89—published 6/28/89, effective 7/1/89]
[Filed 7/13/89, Notice 5/31/89—published 8/9/89, effective 10/1/89]
[Filed 7/14/89, Notice 4/19/89—published 8/9/89, effective 10/1/89]
[Filed 8/17/89, Notice 6/28/89—published 9/6/89, effective 11/1/89]
[Filed emergency 6/20/90—published 7/11/90, effective 7/1/90]
[Filed 8/16/90, Notice 7/11/90—published 9/5/90, effective 11/1/90]
[Filed 10/12/90, Notice 7/11/90—published 10/31/90, effective 1/1/91]
[Filed 11/15/91, Notice 9/18/91—published 12/11/91, effective 2/1/92]
[Filed 12/11/91, Notice 10/16/91—published 1/8/92, effective 3/1/92]*
[Filed emergency 4/15/92—published 5/13/92, effective 4/16/92]
[Filed emergency 6/12/92—published 7/8/92, effective 7/1/92]
[Filed 8/14/92, Notice 7/8/92—published 9/2/92, effective 11/1/92]
[Filed 5/14/93, Notice 3/17/93—published 6/9/93, effective 8/1/93]
[Filed emergency 6/11/93—published 7/7/93, effective 7/1/93]
[Filed without Notice 8/12/93—published 9/1/93, effective 11/1/93]
[Filed 8/12/93, Notice 2/17/93—published 9/1/93, effective 11/1/93]
[Filed 9/17/93, Notice 7/21/93—published 10/13/93, effective 1/1/94]
[Filed emergency 10/14/93—published 11/10/93, effective 11/1/93]
[Filed 11/12/93, Notice 9/15/93—published 12/8/93, effective 2/1/94]
[Filed 12/16/93, Notices 10/13/93, 11/10/93—published 1/5/94, effective 3/1/94]
[Filed emergency 5/11/94 after Notice 3/16/94—published 6/8/94, effective 6/1/94]
[Filed emergency 6/16/94—published 7/6/94, effective 7/1/94]
[Filed 8/12/94, Notice 7/6/94—published 8/31/94, effective 11/1/94]

◊Two or more ARCs
*Effective date of 3/1/92 delayed until adjournment of the 1992 General Assembly by the Administrative Rules Review Committee at its meeting held February 3, 1992.

[Filed emergency 12/15/94—published 1/4/95, effective 2/1/95]
[Filed 12/15/94, Notice 10/26/94—published 1/4/95, effective 3/1/95]
[Filed 2/16/95, Notice 1/4/95—published 3/15/95, effective 5/1/95]
[Filed 3/20/95, Notice 1/18/95—published 4/12/95, effective 6/1/95]
[Filed 4/13/95, Notices 2/15/95, 3/1/95—published 5/10/95, effective 7/1/95]
[Filed emergency 6/7/95—published 7/5/95, effective 7/1/95]
[Filed emergency 7/12/95—published 8/2/95, effective 9/1/95]
[Filed 8/10/95, Notice 7/5/95—published 8/30/95, effective 11/1/95]
[Filed 9/25/95, Notice 8/2/95—published 10/11/95, effective 12/1/95]
[Filed 2/14/96, Notice 12/20/95—published 3/13/96, effective 5/1/96]
[Filed emergency 6/13/96—published 7/3/96, effective 7/1/96]
[Filed emergency 6/13/96—published 7/3/96, effective 8/1/96]
[Filed 8/15/96, Notices 6/19/96, 7/3/96—published 9/11/96, effective 11/1/96]
[Filed 9/17/96, Notice 7/17/96—published 10/9/96, effective 12/1/96]
[Filed emergency 6/12/97—published 7/2/97, effective 7/1/97]
[Filed 8/13/97, Notice 7/2/97—published 9/10/97, effective 11/1/97]
[Filed 10/15/97, Notice 7/30/97—published 11/5/97, effective 1/1/98]
[Filed emergency 6/10/98—published 7/1/98, effective 7/1/98]
[Filed without Notice 6/10/98—published 7/1/98, effective 8/15/98]
[Filed 8/12/98, Notice 7/1/98—published 9/9/98, effective 11/1/98]
[Filed emergency 10/14/98 after Notice 8/26/98—published 11/4/98, effective 11/1/98]
[Filed emergency 6/10/99—published 6/30/99, effective 7/1/99]

# CHAPTER 169
# FUNDING FOR EMPOWERMENT AREAS

## PREAMBLE

These rules define and structure the department of human services' child care funding for designated empowerment areas. Funds are provided to community empowerment areas pursuant to Iowa Code section 7I.8(3) as amended by 1999 Iowa Acts, Senate File 439, section 14, to develop and improve local child care capacity to better enable low-income parents to obtain or retain employment. These rules establish conditions and procedures for the disbursement, use, and administration of these funds. This grants program is administered by the department in conjunction with the Iowa empowerment board, according to conditions set forth in Iowa Code chapter 7I as amended by 1999 Iowa Acts, Senate File 439.

**441—169.1(7I) Definitions.**

*"Applicant"* means an entity seeking funding under these rules.

*"Community empowerment area"* or *"area"* means an entity as defined in Iowa Code section 7I.5 as amended by 1999 Iowa Acts, Senate File 439, sections 10 and 11, and as further defined by any administrative rules implemented by the Iowa empowerment board pursuant to Iowa Code chapter 7I.

*"Department"* means the department of human services.

*"Iowa empowerment board"* or *"board"* means the entity as defined in Iowa Code section 7I.2 as amended by 1999 Iowa Acts, Senate File 439, sections 3 to 7.

*"Low-income families"* means families at or below 185 percent of the federal poverty level.

*"Temporary Assistance for Needy Families (TANF)"* means a federal funding stream, for which the state is eligible under Public Law 104-193 for use in welfare reform and related activities.

**441—169.2(7I) Use of funds.** Funds shall be used in compliance with federal law and shall be used only for enhancing quality child care capacity in support of parent capability to obtain or retain employment. The funds shall be used with a primary emphasis on low-income families with children from birth to age five.

**169.2(1)** *Eligible activities.* Funds shall be used to implement strategies identified by communities that may include, but are not limited to:

*a.* Developing capacity for regular child care, sick child care, night shift child care, and emergency child care.

*b.* Enhancing linkages between the Head Start program, the Early Head Start program, early childhood development programs, and child care assistance programs.

*c.* Implementing other strategies that enhance access to child care.

*d.* Supporting ongoing activities related to paragraphs *"a"* through *"c."*

**169.2(2)** *Limitations on using funds.* Funds shall not be used for any purposes precluded by federal law. The Iowa empowerment board may establish additional limitations on the use of funds.

**169.2(3)** *Administrative costs.* Community empowerment areas may use up to 5 percent of funding for administrative costs in administering the grant, provided those expenditures are directly related to the project. Administrative costs shall be as defined in 45 CFR 98.52 as amended to October 1, 1997.

**441—169.3(7I) Eligibility for funding.**

**169.3(1)** *Eligible entities.* Eligible entities are those designated as a community empowerment area by the Iowa empowerment board.

**169.3(2)** *Applications.* The community empowerment area shall submit an application for funding to the Iowa empowerment board. Actions on the application will be made by the board based on criteria set forth by the board.

**441—169.4(7I) Funding availability.** The availability of funds is subject to the following parameters:

**169.4(1)** *Total funding available.* Total funding available in each state fiscal year shall be the amount set pursuant to enacted legislative appropriations, less any other obligations that the legislation creates. Funding shall be further subject to federal funding actions which reduce or eliminate the availability of this funding and to changes in Iowa law.

**169.4(2)** *Administration of funds.* These funds do not reside in the Iowa empowerment fund but are administered by the department. Upon the award of funding by the Iowa empowerment board, funds shall be disbursed to the community empowerment area by the department pursuant to a negotiated payment schedule that complies with state and federal law. Funds received by a community empowerment area shall be administered through a fiscal agent.

**169.4(3)** *Obligated funds.* Funds that have been applied for by and awarded to a community empowerment area prior to June 30 of each state fiscal year shall be considered obligated. These funds do not revert, but shall remain available to the area, regardless of whether the funding has yet been spent, if paid to the area by August 31 following the close of the state fiscal year in which the funds were obligated.

**169.4(4)** *Unobligated funds.* Funds that have not been obligated or paid pursuant to the preceding subrule shall revert and do not remain available to the area in a subsequent state fiscal year.

**169.4(5)** *Eligible funding for area.* In determining a designated community empowerment area's eligible funding, total funds available for the state fiscal year shall be prorated according to the following:

*a.* A designated community empowerment area's maximum eligible funding is the percentage of the total available funding which is equal to the area's percentage of average monthly statewide family investment program cases in the preceding state fiscal year, as reported to the Iowa empowerment board by the department.

*b.* If a community empowerment board's request for official designation is received by the Iowa empowerment board on or after September 1, 1999, upon designation, the maximum funding amount shall be prorated for the fiscal year and rounded up to the nearest full month. The community empowerment areas that received designation in January 1999 and those areas requesting designation on or before August 31, 1999, are eligible to receive upon designation the maximum funding for the fiscal year beginning July 1, 1999, upon submission and approval of an application.

*c.* The Iowa empowerment board may award a lesser amount than calculated pursuant to this subrule based on the nature of the community empowerment area's request.

**441—169.5(7I) Community empowerment areas' responsibilities.**

**169.5(1)** *Fiscal agent.* The community empowerment area shall designate a public agency, a community action agency as defined in Iowa Code section 216A.91, or a nonprofit corporation as a fiscal agent and ensure that appropriate and adequate accounting mechanisms are in place through the fiscal agent to deposit, disburse and account for funds received, including tracking of the timing and purpose of any financial transaction.

**169.5(2)** *Grant agreement.* A grant agreement shall be entered into by the community empowerment area, the department, and the Iowa empowerment board.

**169.5(3)** *Spending funds.* The community empowerment area shall spend funds according to its application as approved by the Iowa empowerment board and grant agreement.

**169.5(4)** *Reporting and audit requirements.* The community empowerment area shall meet federal reporting and audit requirements. The Iowa empowerment board may establish other audit and reporting requirements.

**441—169.6(7I) Iowa empowerment board's responsibilities.**

**169.6(1)** *Application review.* The Iowa empowerment board shall review applications and act upon them in a timely manner.

**169.6(2)** *Amount of funding.* The Iowa empowerment board shall determine the amount of funding to be awarded, up to the eligible amount as defined in subrule 169.4(5).

**169.6(3)** *Notification.* The Iowa empowerment board shall notify the community empowerment area and the department of its decision.

**169.6(4)** *Negotiating grant agreements.* The Iowa empowerment board shall participate in negotiation of a grant agreement that includes:

*a.* The amount awarded.

*b.* How the funds will be used and the timing of disbursements from the department to the community empowerment area.

*c.* Expected results and reports on progress toward those results, including results for children from birth to age five.

*d.* An agreement by the community empowerment area to comply with federal reporting and audit requirements.

*e.* Other conditions mutually agreed to by the community empowerment area and the Iowa empowerment board.

**169.6(5)** *Review.* The Iowa empowerment board shall review the status and progress of grantees.

**441—169.7(7I) Department of human services' responsibilities.**

**169.7(1)** *Disbursement of funds.* The department shall disburse funds to community empowerment areas under grant agreements.

**169.7(2)** *Technical assistance.* The department shall, upon request of the board, provide technical assistance and other support to the Iowa empowerment board and community empowerment areas.

**169.7(3)** *Negotiations and review.* The department shall assist the Iowa empowerment board in negotiating grant agreements and, upon request, assist the Iowa empowerment board in reviewing the status and progress of grantees.

**441—169.8(7I) Revocation of funding.** Notwithstanding other portions of these rules, funding may be revoked under the following conditions.

**169.8(1)** *Failure to comply.*

*a.* Either the Iowa empowerment board or the department may revoke funds if the community empowerment area is failing to comply with federal reporting or audit requirements or is using funds for other than an allowable purpose. The revocation shall be prospective, and may also be retroactive if the failure to comply or use of funding is such that the federal funds already expended are in jeopardy of being recovered by the federal government.

*b.* The Iowa empowerment board may revoke funds if the community empowerment area is not complying with other conditions agreed to by the board and the area, or if the board determines that the area is not performing pursuant to their approved application or grant agreement or is not making satisfactory progress toward results. The revocation shall be prospective only and may include unexpended funds already obligated to the area.

**169.8(2)** *Corrective action plan.* Prior to notice of revocation, either the department or the Iowa empowerment board may first work with the community empowerment area to develop and implement a corrective action plan if in the discretion of the department or the Iowa empowerment board such a plan has a reasonable chance of success.

**169.8(3)** *Subsequent application.* A community empowerment area which has had its funding revoked may submit a subsequent application, which shall be considered a new application and eligible for prospective funding only. Applications submitted subsequent to a revocation of funding must also address how the matters leading to a previous revocation have been addressed in order to prevent problems from occurring again.

**441—169.9(7I) Appeals.** A designated community empowerment area may file an appeal with the director of the department of human services as follows:

**169.9(1)** *Appealable actions.* Issues that can be appealed include disbursement of funds and revocation of funding if initiated by the department.

**169.9(2)** *Nonappealable actions.* The denial or rejection of a grant application, the amount of a grant award, and other actions taken by the Iowa empowerment board are not appealable to the director of the department of human services. These actions are subject to appeal procedures set forth by the Iowa empowerment board.

**169.9(3)** *Letter of appeal.* The letter of appeal must be submitted within five working days of the action of the department and must clearly and fully identify all issues being contested.

The director of the department shall review the appeal request and issue a decision within ten days of the request or within ten days of receipt by the department of any follow-up information requested from the appellant.

These rules are intended to implement 1999 Iowa Acts, Senate File 439, section 17, and Iowa Code section 7I.8(3) as amended by 1999 Iowa Acts, Senate File 439, section 14.

[Filed emergency 6/10/98—published 7/1/98, effective 6/10/98]
[Filed 8/12/98, Notice 7/1/98—published 9/9/98, effective 11/1/98]
[Filed emergency 6/10/99—published 6/30/99, effective 7/1/99]

TITLE XV
*INDIVIDUAL AND FAMILY SUPPORT AND PROTECTIVE SERVICES*

# CHAPTER 170
# CHILD CARE SERVICES

[Prior to 7/1/83, Social Services[770] Ch 132]
[Previously appeared as Ch 132—renumbered IAB 2/29/84]
[Prior to 2/11/87, Human Services[498]]

## PREAMBLE

The intent of this chapter is to establish requirements for the payment of child care services. Child care services are for children of low-income parents who are in academic or vocational training; or employed or looking for employment; or for a limited period of time, absent due to hospitalization, physical or mental illness, or death; or needing protective services to prevent or alleviate child abuse or neglect. Services may be provided in a licensed child care center, a registered group child care home, a registered family child care home, the home of a relative, the child's own home, a nonregistered family child care home, or in a facility exempt from licensing or registration.

**441—170.1(234) Definitions.**

*"Child care"* means a service that provides child care in the absence of parents for a portion of the day, but less than 24 hours. Child care supplements parental care by providing care and protection for children who need care in or outside their homes for part of the day. Child care provides experiences for each child's social, emotional, intellectual, and physical development. Child care may involve comprehensive child development care or it may include special services for a child with special needs. Components of this service shall include supervision, food services, program and activities, and may include transportation.

*"Child with protective needs"* means a child who has a case plan that identifies protective child care as a required service and who is a member of a family with one of the following:

1. A confirmed case of child abuse.
2. Episodes of family or domestic violence or substance abuse which place the child at risk of abuse or neglect and have resulted in a service referral to family preservation or family-centered services.

*"Child with special needs"* means a child with one or more of the following conditions:

1. The child has been diagnosed by a physician or by a person endorsed for service as a school psychologist by the Iowa department of education to have a developmental disability which substantially limits one or more major life activities, and the child requires professional treatment, assistance in self-care, or the purchase of special adaptive equipment.
2. The child has been determined by a qualified mental retardation professional to have a condition which impairs the child's intellectual and social functioning.
3. The child has been diagnosed by a mental health professional to have a behavioral or emotional disorder characterized by situationally inappropriate behavior which deviates substantially from behavior appropriate to the child's age, or which significantly interferes with the child's intellectual, social, or personal adjustment.

*"Department"* means the Iowa department of human services.

*"Food services"* means the preparation and serving of nutritionally balanced meals and snacks.

*"In-home"* means care which is provided within the child's own home.

*"Migrant seasonal farm worker"* means a person to whom all of the following conditions apply:

1. The person performs seasonal agricultural work which requires travel so that the person is unable to return to the person's permanent residence within the same day.

2. Most of the person's income is derived from seasonal agricultural work performed during the months of July through October. Most shall mean the simple majority of the income.

3. The person generally performs seasonal agricultural work in Iowa during the months of July through October.

*"Program and activities"* means the daily schedule of experiences in a child care setting.

*"Provider"* means a licensed child care center, a registered group child care home, a registered family child care home, a relative who provides care in the relative's own home solely for a related child (relative care), a caretaker who provides care for a child in the child's home (in-home), a nonregistered child care home, or a child care facility which is exempt from licensing or registration.

*"Relative"* means an adult aged 18 or older who is a grandparent, aunt or uncle to the child being provided child care.

*"Supervision"* means the care, protection, and guidance of a child.

*"Transportation"* means the movement of children in a four or more wheeled vehicle designed to carry passengers, such as a car, van, or bus, between home and facility.

*"Unit of service"* means a half day which shall be up to 5 hours of service per 24-hour period.

*"Vocational training"* means a training plan which includes a specific goal, that is, high school completion, improved English skills, development of specific academic or vocational skills.

1. Training may be approved for high school completion activities, adult basic education, GED, English as a second language, and a postsecondary education, up to and including a baccalaureate degree program.

2. Training may be approved for college programs which lead to an associate of arts degree.

3. Training shall be on a full-time basis. The training facility shall define what is considered as full time. Part-time plans may be approved only if the number of credit hours to complete training is less than full-time status, the required prerequisite credits or remedial course work is less than full-time status, or training is not offered on a full-time basis.

**441—170.2(234) Eligibility.**

**170.2(1)** *Financial.* Financial eligibility shall be determined according to rule 441—130.3(234,239B).

For migrant seasonal farm workers, the monthly gross income shall be determined by calculating the total amount of income earned in a 12-month period preceding the date of application and dividing the total amount by 12.

**170.2(2)** *General eligibility requirements.* In addition to meeting financial requirements, the child needing services must meet age requirements and each parent in the household must have at least one need for service. When funds are insufficient, families applying for services must meet the specific requirements found in subrule 170.2(3) of the priority group for which applications are being taken. Families approved when applications are being taken for priority groups are not required to meet the requirements in paragraph 170.2(2)*"b"* except at review or redetermination. Recipients of the family investment program or those whose earned income was taken into account in determining the needs of family investment program recipients are eligible for child care assistance notwithstanding waiting lists for child care services.

*a.* *Age.* Child care shall be provided only to children up to age 13, unless they are children with special needs in which case child care shall be provided up to age 19. Children who are part of the family investment program who are 13 years of age and older may be eligible for child care assistance benefits if there are special circumstances surrounding the child in need of child care. The child's parent or guardian shall submit a request for an exception to the supervisor of the county department office.

*b.* *Need for service.* Each parent in the household shall meet one or more of the following requirements:

(1) The parent is in academic or vocational training. Child care provided while the parent participates in postsecondary education or vocational training shall be limited to a 24-month lifetime limit. A month is defined as a fiscal month or part thereof and shall generally have starting and ending dates falling within two calendar months but shall only count as one month. Time spent in high school completion, adult basic education, GED, or English as a second language does not count toward the 24-month limit.

PROMISE JOBS child care allowances provided while the parent is a recipient of the family investment program and participating in PROMISE JOBS components in postsecondary education or training shall count toward the 24-month lifetime limit.

Child care assistance may be paid for study time for PROMISE JOBS participants if approved by the PROMISE JOBS worker.

(2) The parent is employed 28 or more hours per week, or an average of 28 or more hours per week during the month. Child care services may be provided for the hours of employment of a single parent or the coinciding hours of employment of both parents in a two-parent home, and for actual travel time between home, child care facility, and place of employment.

(3) The parent needs child care as part of a protective service plan to prevent or alleviate child abuse or neglect.

(4) The person who normally cares for the child is absent from the home due to inpatient hospitalization or outpatient treatment for chemotherapy, radiation or dialysis because of physical illness, mental illness, or death. Care under this paragraph is limited to a maximum of one month, unless extenuating circumstances are justified and approved after case review by the regional administrator.

(5) The parent is looking for employment. Child care for job search shall be limited to only those hours the parent is actually looking for employment including travel time. A job search plan shall be approved by the department and limited to a maximum of 30 working days in a 12-month period. Child care in two-parent families may be provided only during the coinciding hours of both parents' looking for employment, or during one parent's employment and one parent's looking for employment. Documentation of job search contacts shall be furnished to the department. The department may enter into a nonfinancial coordination agreement for information exchange concerning job search documentation.

EXCEPTION: Additional hours may be paid for job search for PROMISE JOBS recipients if approved by the PROMISE JOBS worker.

(6) The person is participating in activities approved under the PROMISE JOBS program and there is a need for child care services.

(7) The family is part of the family investment program and there is a need for child care.

If a parent in a family investment program household remains in the home, child care assistance can be paid if that parent receives Supplemental Security Income or social security.

**170.2(3)** *Priority for service.* Funds available for child care services shall first be used to continue services to families currently receiving child care services and to families with protective child care needs. As funds are determined available, families shall be served on a statewide basis from a region-wide waiting list based on the following schedule in descending order of prioritization. Recipients of the family investment program, or those whose earned income was taken into account in determining the needs of family investment program recipients, are eligible for child care notwithstanding waiting lists for child care services. Applications for child care services shall be taken only for the priority groupings for which funds have been determined available.

*a.* Families with an income at or below 100 percent of the federal poverty level whose members are employed at least 28 hours per week, and parents with a family income at or below 100 percent of the federal poverty level who are under the age of 21 and are participating in an educational program leading to a high school diploma or equivalent.

*b.* Rescinded IAB 7/6/94, effective 7/1/94.

*c.* Parents under the age of 21 with a family income at or below 100 percent of the federal poverty guidelines who are participating, at a satisfactory level, in an approved training program or in an education program.

*d.* Families with an income of more than 100 percent but not more than 140 percent of the federal poverty guidelines whose members are employed at least 28 hours per week.

*e.* Families with an income at or below 175 percent of the federal poverty guidelines whose members are employed at least 28 hours per week with a special needs child as a member of the family.

*f.* Rescinded IAB 7/6/94, effective 7/1/94.

*g.* Rescinded IAB 9/9/98, effective 11/1/98.

**170.2(4)** *Prioritization within child care subsidized programs.* Rescinded IAB 6/30/99, effective 7/1/99.

**441—170.3(234) Goals.** Appropriate goals for child care services are those described in 441—subrule 130.7(1), paragraphs *"a," "c,"* and *"d."*

**441—170.4(234) Elements of service provision.**

**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(2)*"b"*(3).

**170.4(2)** *Fees.* Fees are assessed and collected in accordance with rule 441—130.4(234).

**170.4(3)** *Method of provision.* The department shall issue the Child Care Certificate, Form 470-2959, to the client to select a child care provider. Parents shall be allowed to exercise their choice for in-home care, except when the parent meets the need for service under subparagraph 170.2(2)*"b"*(3), as long as the conditions in paragraph 170.4(7)*"d"* are met. When the child meets the need for service under 170.2(2)*"b"*(3), parents shall be allowed to exercise their choice of licensed or registered child care provider except when the department service worker determines it is not in the best interest of the child.

The department shall make payment for child care provided to eligible families when the Child Care Certificate, Form 470-2959, has been completed and signed by the parent, the provider, and the department worker, and when the provider meets the applicable requirements set forth below.

*a.* Licensed child care center. A child care center shall be licensed by the department to meet the requirements set forth in 441—Chapter 109 and shall have a current Certificate of License, Form SS-1203-3.

*b.* Registered group child care home. A group child care home shall meet the requirements for registration set forth in 441—Chapter 110 and shall have a current Certificate of Registration, Form 470-3498.

*c.* Registered family child care home. A family child care home shall meet the requirements for registration set forth in 441—Chapter 110 and shall have a current Certificate of Registration, Form 470-3498.

*d.* Relative care. An adult relative who provides care in the relative's own home solely for a related child may receive payment for child care services when selected by the parent.

*e.* In-home care. The adult caretaker selected by the parent to provide care in the child's own home shall be sent the pamphlet Comm. 95, Minimum Health and Safety Requirements for Nonregistered Care Home Providers, and Form 470-2890, Payment Application for Nonregistered Providers. Form 470-2890 shall be signed by the provider and returned to the department within 15 days before payment may be made. Signature on the form certifies the provider's understanding of and compliance with the conditions and requirements for nonregistered providers that include: minimum health and safety requirements, limits on the number of children for whom care may be provided, unlimited parental access to the child or children during hours when care is provided, unless prohibited by court order, and conditions that warrant nonpayment.

*f.* Nonregistered family child care home. The adult caretaker selected by the parent to provide care in a nonregistered family child care home shall be sent the pamphlet Comm. 95, Minimum Health and Safety Requirements for Nonregistered Child Care Home Providers, and Form 470-2890, Payment Application for Nonregistered Providers. Form 470-2890 shall be signed by the provider and returned to the department within 15 days before payment may be made. Signature on the form certifies the provider's understanding of and compliance with the conditions and requirements for nonregistered providers that include: minimum health and safety requirements, limits on the number of children for whom care may be provided, unlimited parental access to the child or children during hours when care is provided, unless prohibited by court order, and conditions that warrant nonpayment.

*g.* Exempt facilities. Child care facilities which are exempt from licensing or registration as defined in Iowa Code section 237A.1 may receive payment for child care services when selected by a parent.

*h.* Record checks for nonregistered family child care homes. If a nonregistered child care provider, including a relative, wishes to receive public funds as reimbursement for providing child care for eligible clients, the provider shall complete Form 470-0643, Request for Child Abuse Information, and Form 595-1489, State of Iowa Non-Law Enforcement Record Check Request, Form A, for the provider as though the provider either is being considered for registration or is registered to provide child care, for anyone having access to a child when the child is alone, and anyone living in the home. The county office worker or the PROMISE JOBS worker shall provide the individual with the necessary forms. The provider shall return the forms to the county office or PROMISE JOBS worker for submittal to the division of adult, children and family services.

If there is a record of founded child abuse naming a nonregistered child care provider, anyone having access to a child when the child is alone, or any individual living in the home of the nonregistered child care provider as being a perpetrator of child abuse, or a criminal conviction for any of the same individuals, the division shall notify the regional office to perform an evaluation following the process defined at 441—subrule 110.7(3) or rule 441—110.31(237A). If any of the individuals would be prohibited from registration, employment, or residence, the person shall not provide child care and is not eligible to receive public funds to do so. The regional administrator or designee shall notify the applicant, and a copy of that notification shall be forwarded to the county attorney, the county office, and the PROMISE JOBS worker, if applicable. A person who continues to provide child care in violation of this law is subject to penalty and injunction under Iowa Code chapter 237A.

**170.4(4)** *Components of service program.* Every child eligible for child care services shall receive supervision, food services, and program and activities, and may receive transportation.

**170.4(5)** *Levels of service according to age.* Rescinded IAB 9/30/92, effective 10/1/92.

**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."* 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.

**170.4(7)** *Payment.*

*a. Rate of payment.* The rate of payment for child care services, except for in-home care which shall be paid in accordance with 170.4(7)*"d,"* 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 needs, including, but not limited to, adaptive equipment, more careful supervision, or special staff training.

Table I
Half-Day Rate Ceilings for Basic Care

| Age Group | Day Care Center | Registered Family Home | Registered Group Home | Nonregistered Family Home |
|---|---|---|---|---|
| Infant and Toddler | $11.50 | $9.00 | $8.50 | $8.19 |
| Preschool | $ 9.50 | $9.00 | $7.88 | $7.19 |
| School Age | $ 8.50 | $9.00 | $7.88 | $7.36 |

Table II
Half-Day Rate Ceilings for Special Needs Care

| Age Group | Day Care Center | Registered Family Home | Registered Group Home | Nonregistered Family Home |
|---|---|---|---|---|
| Infant and Toddler | $28.13 | $11.25 | $11.00 | $10.24 |
| Preschool | $28.55 | $ 9.72 | $10.28 | $ 8.99 |
| School Age | $29.93 | $13.50 | $11.47 | $ 9.20 |

The following definitions apply in the use of the rate tables:

(1) "Child care center" shall mean those providers as defined in 170.4(3)*"a"* and *"g"*; "registered family child care home" shall mean those providers as defined in 170.4(3)*"c"*; "registered group child care home" shall mean those providers as defined in 170.4(3)*"b"*; and "nonregistered family child care home" shall mean those providers as defined in 170.4(3)*"d"* and *"f."*

(2) Under age group, "infant and toddler" shall mean age two weeks to two years; "preschool" shall mean two years to school age; "school age" shall mean a child in attendance in full-day or half-day classes.

*b. Payment for days of absence.* Payment may be made to a child care provider defined in subrule 170.4(3) for an individual child not in attendance at a child care facility not to exceed four days per calendar month providing that the child is regularly scheduled on those days and the provider also charges a private individual for days of absence.

*c. Payment for multiple children in a family.* When a provider reduces the charges for the second and any subsequent children in a family with multiple children whose care is unsubsidized, the rate of payment made by the department for a family with multiple children shall be similarly reduced.

*d. Payment for in-home care.* Payment may be made for in-home care when there are three or more children in a family who require child care services. The rate of payment for in-home care shall be the minimum wage amount.

*e. Limitations on payment.* Payment shall not be made for therapeutic services that are provided in the care setting and include, but are not limited to, services such as speech, hearing, physical and other therapies, individual or group counseling, therapeutic recreation, and crisis intervention.

*f. Review of the calculation of the rate of payment.* Maximum rate ceilings 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 request 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.

**441—170.5(234) Adverse service actions.** Services may be denied, terminated, or reduced according to rule 441—130.5(234). The department may refuse to enter into or may revoke the Child Care Certificate, Form 470-2959, if a hazard to the safety and well-being of a child is found by the department of human services, and the provider cannot or refuses to correct the hazards; or if the provider has submitted claims for payment for which the provider is not entitled.

**441—170.6(234) Appeals.** Notice of adverse actions and the right of appeal shall be given in accordance with 441—Chapter 7.

**441—170.7(234) Transitional child care.** Rescinded IAB 7/6/94, effective 7/1/94.

**441—170.8(234) Allocation of funds.** The department shall allocate funds for child care services to the regional offices of the department to ensure that the current need and projected growth in services to families currently receiving child care services and to families with protective child care needs are met. The funds for nonprotective child care services shall be allocated based on the expenditures of the regional office proportional to the total state expenditures for nonprotective child care services. The funds for protective child care services shall be allocated based on historical data, 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 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 currently receiving child care services and to families with protective child care needs are met.

These rules are intended to implement Iowa Code section 234.6(6)*"a."*

[Filed 7/3/79, Notice 12/27/78—published 7/25/79, effective 9/1/79]
[Filed 7/18/80, Notice 3/5/80—published 8/6/80, effective 9/10/80]
[Filed 12/19/80, Notice 10/29/80—published 1/7/81, effective 2/11/81]
[Filed 1/16/81, Notice 12/10/80—published 2/4/81, effective 4/1/81]
[Filed 4/29/82, Notice 3/3/82—published 5/26/82, effective 7/1/82]
[Filed 5/21/82, Notice 3/31/82—published 6/9/82, effective 8/1/82]
[Filed emergency 9/23/82—published 10/13/82, effective 9/23/82]
[Filed emergency 6/17/83—published 7/6/83, effective 7/1/83]
[Filed emergency 2/10/84—published 2/29/84, effective 2/10/84]
[Filed 1/15/87, Notice 12/3/86—published 2/11/87, effective 4/1/87]
[Filed 9/21/88, Notice 8/10/88—published 10/19/88, effective 12/1/88]
[Filed emergency 6/8/89 after Notice of 5/3/89—published 6/28/89, effective 7/1/89]
[Filed emergency 6/8/89—published 6/28/89, effective 7/1/89]
[Filed 8/17/89, Notice 6/28/89—published 9/6/89, effective 11/1/89]
[Filed 9/15/89, Notice 8/9/89—published 10/4/89, effective 12/1/89]
[Filed emergency 10/10/91—published 10/30/91, effective 11/1/91]
[Filed 12/11/91, Notice 10/30/91—published 1/8/92, effective 3/1/92]
[Filed emergency 9/11/92—published 9/30/92, effective 10/1/92]
[Filed 11/10/92, Notice 9/30/92—published 12/9/92, effective 2/1/93]
[Filed emergency 6/11/93—published 7/7/93, effective 7/1/93]
[Filed 8/12/93, Notice 7/7/93—published 9/1/93, effective 11/1/93]
[Filed emergency 10/14/93—published 11/10/93, effective 12/1/93]
[Filed 12/16/93, Notice 11/10/93—published 1/5/94, effective 3/1/94]

[Filed emergency 6/16/94—published 7/6/94, effective 7/1/94]
[Filed 8/12/94, Notice 7/6/94—published 8/31/94, effective 11/1/94]
[Filed emergency 6/7/95—published 7/5/95, effective 7/1/95]
[Filed 8/10/95, Notice 7/5/95—published 8/30/95, effective 11/1/95]
[Filed emergency 6/13/96—published 7/3/96, effective 7/1/96]
[Filed emergency 7/10/96—published 7/31/96, effective 8/1/96]
[Filed 9/17/96, Notices 7/3/96, 7/31/96—published 10/9/96, effective 12/1/96]
[Filed 4/11/97, Notice 2/26/97—published 5/7/97, effective 7/1/97]
[Filed emergency 6/12/97—published 7/2/97, effective 7/1/97]
[Filed 8/13/97, Notice 7/2/97—published 9/10/97, effective 11/1/97]
[Filed 9/16/97, Notice 7/16/97—published 10/8/97, effective 12/1/97]
[Filed 5/13/98, Notice 3/25/98—published 6/3/98, effective 8/1/98]
[Filed 8/12/98, Notice 6/17/98—published 9/9/98, effective 11/1/98]
[Filed 2/10/99, Notice 12/16/98—published 3/10/99, effective 5/1/99]
[Filed emergency 6/10/99—published 6/30/99, effective 7/1/99]

DIVISION VI
ESTABLISHMENT OF RATES

**441—185.101(234) Definitions.** These definitions shall apply to this division of 441—Chapter 185 only.

*"Accrual basis accounting"* means the generally accepted accounting principle which requires that revenue be recognized as earned and expenses be recognized as incurred.

*"Across-the-board increase"* means a uniform percentage or fixed dollar increase of those rates established by nonexceptional means.

*"Benefits"* means compensation in the form of access to services made available by the employer.

*"Common ownership"* means that relationship existing when an individual or individuals possess significant ownership or equity in the provider and the institution or organization serving the provider.

*"Control"* means that relationship existing where an individual or an organization has the power, directly or indirectly, to significantly influence or direct the actions or policies of an organization or institution.

*"Co-therapy"* means the use of two qualified therapists for group therapy and counseling services.

*"Department"* means the Iowa department of human services.

*"Group service"* refers to a service in which two or more nonrelated persons participate. For purposes of this definition, one or more persons from a family represent one person.

*"Host region"* means the department region which is responsible for administering the provider's contract with the department to provide rehabilitative treatment and supportive services.

*"Indirect cost"* means those expenses which cannot be related directly to a specific program and are, therefore, allocated to more than one program.

*"Individual provider"* means a person under contract pursuant to 441—Chapter 152 who delivers rehabilitative treatment and supportive services independent of a partnership, corporation, agency, governmental unit or any other legal entity.

*"Individual service"* refers to a service in which one person participates in a service. For purposes of this definition, one or more persons from a family represent one person.

*"Interest"* means the cost incurred for the use of borrowed funds. Interest on current indebtedness is the cost incurred for funds borrowed for a relatively short term. Interest on capital indebtedness is the cost incurred for funds borrowed for capital purposes.

*"Multiple program provider"* means a provider which delivers more than one program under a contract with the department pursuant to 441—Chapter 152.

*"Necessary costs"* means costs essential to the provision of rehabilitative treatment and supportive services and to the achievement of service requirements and outcomes up to the extent required by standards established for the services.

*"Negotiated rate"* means the rate of payment established by the department as a result of negotiations between the provider and the department based upon the allowable reasonable and necessary costs of service provision.

*"Occupancy costs"* means expenses related to the acquisition, maintenance, and financing of a property, or rental of property necessary for service.

*"Program"* means the specific support service, core, level of care, or in the case of group care, maintenance.

*"Provider"* means any natural person, company, firm, association, or other legal entity seeking certification pursuant to rule 441—185.9(234) or 441—185.10(234) or under contract with the department pursuant to 441—Chapter 152.

*"Rate resolution process"* means a time-limited structured process involving an independent mediator to facilitate discussions with the goal of producing mutual agreement when the department and the provider have been unable to reach agreement on a rate during the rate negotiation process.

*"Reasonable costs"* means the level of costs which will be recognized for reimbursement purposes.

*"Related to provider"* means that the provider to a significant extent is associated or affiliated with or has control of, or is controlled by, the organization furnishing the services, facilities, or supplies.

*"Similar or same services"* means services which have the same first three digits in their service code.

**441—185.102(234) Financial and statistical report.** The Rehabilitative Treatment and Supportive Services Financial and Statistical Report, Form 470-3049, shall be the basis for establishing the rates to be paid to all providers, both in-state and out-of-state. The Rehabilitative Treatment and Supportive Services Financial and Statistical Report, Form 470-3049, shall be completed by providers according to the following requirements:

**185.102(1)** *Accounting procedures.* Financial information shall be based on the agency's financial records. Providers are required to comply with the following specific requirements:

*a.* Providers shall report on an accrual basis of accounting. Providers not using the accrual basis of accounting shall adjust amounts to the accrual basis when the financial and statistical report is completed. Records of cash receipts and disbursements shall be adjusted to reflect accruals of income and expenses.

*b.* Revenues shall be reported as recorded in the general ledger and adjusted for accruals. Allowance and expense recoveries shall be reflected as revenues.

*c.* Income received from fund-raising efforts or donations shall be reported as revenue on the financial and statistical report and used to offset fund-raising costs. Fund-raising costs remaining after the offset shall be an unallowable cost.

All contributions shall be accompanied by a schedule showing the contribution and anticipated designation by the provider. No private moneys contributed to the provider shall be included by the department in its reimbursement rate determination unless these moneys are contributed for services provided to specific individuals for whom the reimbursement rate is established by the department.

*d.* Depreciation expense reported on the Capital Asset Use Allowance Schedule shall be computed according to 42 CFR 413.130 as amended to September 23, 1992, and the method (straight line depreciation) used as described at 42 CFR 413.134(a)(3)(i) as amended to September 23, 1992. For assets acquired on or after November 1, 1993, useful lives may be based on the 1988 American Hospital Association publication "Estimated Useful Lives of Depreciable Hospital Assets." The 1981 edition of the AHA Guide shall continue to be used to compute useful lives of assets acquired prior to November 1993.

*e.* Assets shall be depreciated when the asset has a useful life of more than one year and a cost in excess of $500.

**185.102(2)** *Cost allocation.* The cost allocation schedule shall be prepared in accordance with recognized methods and procedures, including the following:

*a.* Direct program expense shall include all direct client contact personnel involved in a program including the time of a supervisor of a program, or the apportioned share of the supervisor's time when the supervisor has supervised more than one program.

*b.* Expenses other than salary and fringe benefits shall be charged as direct program expenses when the expenses are identifiable to a program.

*c.* A multiple program provider shall establish a method of cost allocation acceptable to the department. All expenses which relate jointly to two or more programs shall be allocated to programs by utilizing a documented cost allocation method consistently applied. The allocation method shall equitably distribute indirect program costs to reflect the benefit of the cost incurred to all applicable programs.

*d.* Occupancy expenses shall be allocated on a space utilization formula.

**185.109(5)** *Maintenance of fiscal records.* Subrules 185.102(1) to 185.102(3), rule 441—185.104(234), subrules 185.105(11) and 185.106(1), paragraph 185.106(3)*"d,"* and subrule 185.106(4) shall be used as the basis for maintenance of fiscal records.

**185.109(6)** *Certified audits.* Certified audits shall be conducted and the reports submitted to the department as set forth in subrule 185.102(4).

**185.109(7)** *Billing.* For billing purposes, subrule 185.106(4) remains in effect.

**185.109(8)** *Rates for services provided on or after July 1, 1998.* In absence of an alternative rate-setting methodology effective July 1, 1997, rules 441—185.102(234) to 441—185.107(234) shall be the basis of establishing rates to be effective for services provided on or after July 1, 1998.

*a.* In absence of a fixed fee schedule pursuant to rule 441—185.108(234) or other new rate-setting methodology set forth in rule, all providers, regardless of when their fiscal year ends, shall submit a Financial and Statistical Report, Form 470-3049, for the time period July 1, 1997, to December 31, 1997, based on the cost principles set forth in rule 441—185.101(234) to 441—185.107(234). This report shall be submitted no later than March 31, 1998. Rates based on reports submitted pursuant to this paragraph shall be effective no earlier than July 1, 1998, and no later than August 1, 1998, when the report is sufficient for the establishment of rates. However, if a provider with a contract in effect as of June 30, 1996, has a fiscal year which ends at the end of January, February, or March 1998, the provider shall submit the financial and statistical report for the time period July 1, 1997, through the end of the provider's fiscal year, 1998. The report shall be submitted no later than three months after the close of the provider's established 1998 fiscal year. Rates shall be effective no later than the first day of the second full month after receipt by the project manager of a complete financial and statistical report.

*b.* Failure by providers to submit the report within the established time frames without written approval from the chief of the bureau of purchased services or the chief's designee shall be cause to reduce the payment to 75 percent of the rate in effect June 30, 1998, or the weighted average rate as of July 1, 1997, whichever is less. Approval for an extension for the submission shall be granted only when the provider can demonstrate that there have been catastrophic circumstances prohibiting timely submission.

*c.* If an extension is granted, the rate in effect as of June 30, 1998, shall be continued until the new rate is established. If a new rate is not established by the date set forth by the chief of the bureau of purchased services or the chief's designee in the notice of approval of the request to extend the time frame for submission of the Financial and Statistical Report, Form 470-3049, the provider's rate in effect as of June 30, 1998, shall be reduced to 75 percent of the rate in effect June 30, 1998, or the weighted average rate as of July 1, 1997, whichever is less, until such time as the new rate can be established.

*d.* If a provider has submitted the report on time, but a rate cannot be established within four months of the original due date due to incomplete or erroneous information, payment shall be reduced to 75 percent of the rate in effect June 30, 1998, or the weighted average rate as of July 1, 1997, whichever is less, until such time as the new rate can be established.

*e.* All subsequent financial and statistical reports shall be submitted within the time frames established pursuant to subrule 185.103(1).

*f.* Rates for individual providers shall be established pursuant to subrule 185.103(7) with the exception of rates to be in effect July 1, 1998. Individual providers shall submit to the department the information required by subrule 185.103(7) no later than March 31, 1998, to establish rates to be effective July 1, 1998. Rates shall be recalculated annually on the anniversary of the effective date of the contract from that point forward.

**185.109(9)** *Audit adjustments.* If the department or its authorized representatives conduct an audit and the audit findings result in exceptions to costs and adjustment to the rate in effect June 30, 1996, and the June 30, 1996, rate was the basis of the rate established effective July 1, 1996, the July 1, 1996, rate shall be adjusted in accordance with the audit findings.

**185.109(10)** *Liability for payment.* The department shall not be liable for payment for any programs or services prior to the contract effective date or the effective date for the rate for the program or service.

**441—185.110(234) Providers under an exception to policy for establishing rates.** When a provider has been granted an exception to rules 441—185.102(234) to 441—185.107(234) by the director prior to June 30, 1996, and the rate was established based on that exception by June 30, 1996, the exception shall continue in effect as written.

The rate in effect June 30, 1996, shall be frozen. The rate to be effective July 1, 1996, shall be the frozen rate plus a 2 percent index factor. If the rate based on the exception to policy was not established by June 30, 1996, the rate in effect as of June 30, 1996, shall be frozen and the rate to be effective July 1, 1996, shall be the frozen rate plus a 2 percent index factor. If the provider has a zero rate or no rate has been established for the service, the rate shall be established pursuant to subrule 185.109(1). However, for out-of-state providers with an exception to policy to establish rates based on the rates established by the state in which the provider is located, rates shall continue to be established in accordance with the existing exception to policy.

**441—185.111(234) Data.** The data to be used in calculating the fiscal impact of any proposed rules for a cost–based rate–setting methodology to become effective July 1, 1997, and to be used for the establishment of rates to be effective July 1, 1998, shall be the data from financial and statistical reports on which rates were established as of June 30, 1996.

These rules are intended to implement Iowa Code sections 234.6 and 234.38.

**441—185.112(234) Interim determination of rates.** Rules 441—185.102(234) to 441—185.107(234), 185.109(234) and 185.110(234) shall be held in abeyance for purposes of establishing rates effective during the time period beginning January 1, 1998, to June 30, 2000, unless otherwise provided for in these rules. Rates for a service to be effective on or after February 1, 1998, shall be established based on the payment rate negotiated between the provider and the department. This negotiated rate shall be based upon the historical and future reasonable and necessary cost of providing that service, other payment-related factors and availability of funding. Negotiated rates may be increased without negotiation if funds are appropriated for an across-the-board increase. A rate in effect as of December 31, 1997, shall continue in effect until a negotiated rate is established in accordance with the requirements of subrules 185.112(1) to 185.112(3), subrule 185.112(6), or subrule 185.112(12) or until the service is terminated in accordance with subrule 185.112(4).

**185.112(1)** *Negotiation of rates.* Rates for services to be made effective on or after February 1, 1998, must be established in accordance with this subrule except as provided for at subrule 185.112(12).

*a.* On or after January 1, 1998, the department shall begin negotiating payment rates with providers of rehabilitative treatment and supportive services to be effective for services provided on or after February 1, 1998, through June 30, 2000.

(3) The effective date of the rate for a new service shall be the effective date of a new contract or the effective date of the contract amendment adding that new service to an existing contract unless a later effective date is agreed to by both parties.

(4) The effective date of the rate for an existing service shall be the first of the month following the month in which the Rehabilitative Treatment and Supportive Services Negotiated Rate Establishment Amendment, Form 470-3404, and all necessary supportive documentation and disclosures are received by the bureau of purchased services by the fifteenth of the month.

*k.* Once a negotiated rate is established based on the provisions of this subrule it shall not be changed or renegotiated during the time period of this rule except in the following circumstances:

(1) By mutual consent of the provider and the regional administrator of the host region based upon the factors delineated at paragraph 185.112(1)*"f."*

(2) In accordance with paragraph 185.112(6)*"b."*

(3) When funds are appropriated for an across-the-board increase. Effective July 1, 1999, a 2 percent across-the-board increase will be applied.

**185.112(2)** *New services.* When a new provider contracts to provide a rehabilitative treatment or supportive service or an existing provider adds a new rehabilitative treatment or supportive service on or after January 1, 1998, the rate for the new service shall be established based on a payment rate negotiated in accordance with subrule 185.112(1) using the weighted average rate for that service in lieu of an existing rate as the starting point for negotiations.

*a.* If an existing provider already has a rate for a similar service and wishes to establish a second rate for that service, the starting point for rate negotiations for the second rate shall be the starting point used in negotiations for the provider's already established rate for that similar service.

*b.* If an existing provider has more than one rate for a similar service and wishes to establish an additional rate for that service, the starting point for rate negotiations shall be established by the regional administrator of the host region and shall be one of the following: the starting point of that provider's established rate for the similar service most closely resembling the proposed service, or the simple average of the starting points of all of the provider's established rates for similar services.

*c.* The weighted average rate is the weighted average rate for each service as of July 1, 1997, as previously established in accordance with subrule 185.109(1).

*d.* For those services where no weighted average rate has been established because there are less than four rates existing for that service or for newly developed rehabilitative treatment and supportive services, the department shall determine the cost of that service by requiring financial and statistical reports reflecting the costs for the new service to be submitted in accordance with rules 441—185.102(234) to 441—185.107(234). Initial projected rates established in accordance with this subrule shall become effective in accordance with subrule 185.107(2).

The report of actual costs pursuant to paragraph 185.103(1)*"b"* shall be used only to establish the historical costs of the new service which shall be used as the starting point in the rate negotiation process. The negotiated rate established in accordance with subrule 185.112(1) based upon the actual cost report shall become effective in accordance with paragraph 185.112(1)*"j."*

**185.112(3)** *Rate resolution process.* The rate resolution process may be used when the department and a provider are unable to agree upon a rate for a service within 60 days of initiating rate negotiations.

*a.* This process involves obtaining an independent mediator who is agreeable to both parties.

*b.* The cost of the mediator shall be borne equally by the provider and the department. Neither party to the mediation shall be liable for paying for more than that party's share of the cost for eight hours of mediation unless this is mutually agreed upon prior to initiation of the mediation process.

*c.* The rate resolution process must be concluded within 60 days of its initiation.

*d.* The mediator shall not make rate-setting decisions. The role of the mediator is to facilitate discussions between the parties in an effort to help the parties reach a mutual agreement.

**185.112(4)** *Failure to reach agreement on rates.* In the event the department and the provider are unable to reach agreement on a rate, the following procedures apply:

*a.* If the department and an existing provider are unable to reach agreement on a negotiated rate for an existing service with a published rate within 60 days of initiating negotiations or by June 30, 1998, whichever comes first, the rate resolution process may be used.

(1) Whether or not the rate resolution process is used, if agreement is not reached by September 30, 1998, the service shall be deleted from the provider's rehabilitative treatment and supportive services contract no later than November 30, 1998.

(2) If agreement is reached, the rate shall become effective in accordance with the provisions of paragraph 185.112(1)*"i."*

*b.* In the event the department and an existing provider are unable to reach agreement on a rate for a new service or an existing service without a published rate within 60 days of initiating rate negotiations, the rate resolution process may be used.

(1) If the rate resolution process is not used, and agreement is not reached within 120 days of initiating negotiations, no rate shall be established.

1. For new services, any contract amendment associated with that rate shall be denied.

2. For existing services without a rate, the contract shall be amended to delete this service from the contract.

(2) If the rate resolution process is used and no rate is agreed upon within 60 days of referral to the rate resolution process, no rate shall be established.

1. For new services, any contract amendment associated with that rate shall be denied.

2. For existing services without a rate, the contract shall be amended to delete this service from the contract.

3. If agreement is reached within the required time frames in either of the above situations, the rate shall become effective in accordance with the provisions of paragraph 185.112(1)*"i."*

*c.* In the event the department and a new provider are unable to reach agreement on a rate for a service within 60 days of initiating rate negotiations, the rate resolution process may be used. If no rate is agreed upon within 60 days of initiation of the rate resolution process, no rate shall be established and the services in question shall not be a part of any approved contract for rehabilitative treatment and supportive services. In the event that the department and a new provider cannot reach agreement on any rates, the contract shall be denied.

*d.* In all cases, a service for which a negotiated rate has not been established in accordance with subrule 185.112(1), except as provided for at subrule 185.112(12), on or before September 30, 1998, shall be terminated from the provider's contract for rehabilitative treatment and supportive services no later than November 30, 1998.

*e.* The department shall not be liable for payment for any rehabilitative treatment or supportive service that does not have a rate established in accordance with subrule 185.112(1), except as provided for at subrule 185.112(12), that is provided after November 30, 1998.

**185.112(5)** *Public agencies.* Public agencies shall be required to demonstrate their compliance with paragraph 185.106(3)*"d."*

**185.112(6)** *Interruptions in a program.*

*a.* If a provider assumes the delivery of a program from a related party provider as defined at paragraph 185.105(11)*"c"* or 441—subrule 152.2(18), the rate for the new provider shall remain the same as the rate established for the former provider. The rate for the new provider shall also remain the same as for the former provider if the difference between the former and the new provider is a change in name or a change in the legal form of ownership (i.e., a change from sole proprietorship to corporation).

DIVISION VII
BILLING AND PAYMENT PROCEDURES

**441—185.121(234) Billing procedures.** At the end of each month the provider agency shall prepare Form AA–2241–0, Purchase of Service Provider Invoice, for contractual services provided by the agency during the month.

Separate invoices shall be prepared for each county from which clients were referred and each program. Complete invoices shall be sent to the department county office responsible for the client for approval and forwarding for payment.

Providers shall never bill for more than one month of service. A separate invoice is required for each separate month of service, even if the service span overlaps one month.

**185.121(1)** *Time limit for submitting invoices.* The time limit for submission of original invoices shall be 90 days from the date of service, except at the end of the state fiscal year when claims for services through June 30 are to be submitted by August 10.

**185.121(2)** *Resubmittals of rejected claims.* Valid claims which were originally submitted within the time limit specified in 185.121(1) but were rejected because of an error shall be resubmitted as soon as corrections can be made.

**185.121(3)** *Payment.* Within 60 days of the date of receipt of a valid invoice, the department shall make payment in full of all invoices concerning rehabilitative treatment and supportive services rendered to clients, provided the invoices shall be subject to audit and adjustment by the department.

**441—185.122(234) Recoupment procedures.** Public agencies that are reimbursed more than their actual costs are required to refund any excess to the department within four months of the end of their fiscal year. No provision for profit or other increment above cost is intended in OMB Circular A–87 for public agencies. Those public providers subject to this provision who fail to comply with this requirement shall be considered to be in violation of 185.12(1)*"r"* and subject to sanctions. Providers who do not refund any excess payments within six months of the end of their fiscal year shall be given notice in accordance with 185.12(6) and have any and all payments suspended or withheld in accordance with 185.12(7).

These rules are intended to implement Iowa Code sections 234.6 and 234.38.

[Filed without Notice 8/12/93—published 9/1/93, effective 11/1/93*]
[Filed emergency 8/12/93*—published 9/1/93, effective 8/12/93*]
[Filed emergency 10/14/93—published 11/10/93, effective 11/1/93]
[Filed 12/16/93, Notices 9/1/93, 11/10/93—published 1/5/94, effective 3/1/94]
[Filed 3/10/94, Notice 1/19/94—published 3/30/94, effective 6/1/94]
[Filed emergency 5/11/94 after Notice 3/16/94—published 6/8/94, effective 6/1/94]
[Filed emergency 6/16/94—published 7/6/94, effective 7/1/94]
[Filed 8/12/94, Notice 7/6/94—published 8/31/94, effective 11/1/94]
[Filed emergency 12/15/94—published 1/4/95, effective 2/1/95]
[Filed emergency 2/16/95 after Notice 12/7/94—published 3/15/95, effective 2/16/95]
[Filed 2/16/95, Notice 1/4/95—published 3/15/95, effective 5/1/95]
[Filed 4/13/95, Notice 2/15/95—published 5/10/95, effective 7/1/95]
[Filed 5/11/95, Notice 3/29/95—published 6/7/95, effective 8/1/95**]
[Filed emergency 6/7/95—published 7/5/95, effective 7/1/95]
[Filed 8/10/95, Notice 7/5/95—published 8/30/95, effective 11/1/95]
[Filed 10/12/95, Notice 8/30/95—published 11/8/95, effective 1/1/96]
[Filed emergency 6/13/96—published 7/3/96, effective 7/1/96]
[Filed emergency 6/13/96—published 7/3/96, effective 8/1/96]
[Filed 8/15/96, Notice 7/3/96—published 9/11/96, effective 11/1/96]
[Filed 9/17/96, Notice 7/31/96—published 10/9/96, effective 12/1/96]
[Filed 4/11/97, Notice 2/12/97—published 5/7/97, effective 7/1/97]
[Filed emergency 5/14/97 after Notice 3/12/97—published 6/4/97, effective 6/1/97]
[Filed 5/14/97, Notice 3/26/97—published 6/4/97, effective 8/1/97]
[Filed 10/15/97, Notices 7/30/97, 8/13/97—published 11/5/97, effective 1/1/98]
[Filed without Notice 6/10/98—published 7/1/98, effective 8/15/98]
[Filed 8/12/98, Notice 7/1/98—published 9/9/98, effective 11/1/98]
[Filed 1/13/99, Notices 11/18/98, 12/2/98—published 2/10/99, effective 3/17/99]
[Filed emergency 6/10/99—published 6/30/99, effective 7/1/99]

CHAPTERS 186 to 199
Reserved

*Rule 185.4(234), subrule 185.8(4) and rule 185.9(234), effective 8/12/93.
**Effective date of 185.22(1)"*d*,"(2)"*d*," and (3)"*d*," 185.42(3), 185.62(1)"*d*,"(2)"*d*," and (3)"*d*," and 441—185.82(234) delayed 70 days by the Administrative Rules Review Committee at its meeting held July 11, 1995.

(7) Attorney fees and court costs necessary to finalize the adoption, limited to the usual and customary fee for the area.

(8) Funeral benefits at the amount allowed for a foster child in accordance with 441—subrule 156.8(5).

*b.* The need for special services shall be established by a report in the child's record from the private or public agency which had guardianship of the child, and substantiating information from specialists as defined in rule 441—201.2(600).

*c.* Any single special service and any special service delivered over a 12-month period costing $500 or more shall have prior approval from the central office adoption program manager prior to expending program funds.

*d.* For all Medicaid covered services the department shall reimburse at the same rate and duration as Medicaid as set forth in rule 441—79.1(249A).

**201.6(2)** *Maintenance only.* A monthly payment to assist with room, board, clothing and spending money may be provided, as determined under 201.5(600). The child will also be eligible for medical assistance pursuant to 441—Chapter 75.

**201.6(3)** *Maintenance and special services.* For special needs children, a special services subsidy may also be included when a maintenance subsidy is provided.

**441—201.7(600) Termination of subsidy.** Subsidy will terminate when any of the following occur:

**201.7(1)** The adoptive child no longer meets the definition of child in rule 441—201.1(600).

**201.7(2)** The child marries.

**201.7(3)** The adoptive parents are no longer using the maintenance payments to support the child.

**201.7(4)** Death of the child, or death of the parents of the child (one in a single-parent family and both in a two-parent family).

**201.7(5)** Upon conclusion of the terms of the agreement.

**201.7(6)** Upon request of the adoptive parents.

**201.7(7)** The adoptive parents are no longer legally responsible for the child.

**201.7(8)** The family fails to participate in the renewal process.

**441—201.8(600) Reinstatement of subsidy.** Reinstatement of subsidy will be made when the subsidy was terminated because of reasons in 201.7(3) or 201.7(6) to 201.7(8) and the reason for termination no longer exists.

**441—201.9(600) New application.** New applications will be taken at any time, but processed only so long as funds are available. Maintenance and special services already approved will continue.

**441—201.10(600) Medical assistance based on residency.** Special needs children eligible for any type of subsidy are entitled to medical assistance as defined in 441—Chapter 75. The funding source for medical assistance is based on the following criteria:

**201.10(1)** IV-E-eligible children:

*a.* IV-E-eligible children residing in Iowa from Iowa and from other states shall receive medical assistance from Iowa.

*b.* IV-E-eligible children from Iowa residing in another state shall receive medical assistance from the family's state of residence, even though medical assistance available in the family's state of residence may vary from Iowa's medical assistance.

**201.10(2)** Non-IV-E-eligible children:

*a.* Non-IV-E children from Iowa residing in Iowa shall be covered by Iowa's medical assistance.

*b.* Non-IV-E children from Iowa residing in another state shall receive medical assistance from the state of residence when the state has adopted the adoption assistance interstate compact and a contract between Iowa and the family's state of residence is completed. Medical assistance available in the family's state of residence may vary from Iowa's medical assistance.

*c.* Non-IV-E-eligible children from another state residing in Iowa shall continue to be covered by the other state's medical assistance unless the state has adopted the adoption assistance interstate compact and a contract between Iowa and the other state exists.

**201.10(3)** When an Iowa child receives medical assistance from another state, Iowa shall discontinue paying any medical costs the month following the move unless additional time is necessary for a timely notice of decision to be provided to the family. An exception shall be made when the initial Iowa subsidy agreement provides for services not covered by the other states.

**441—201.11(600) Presubsidy recovery.** The department shall recover the cost of presubsidy maintenance and special services provided by the department as follows:

**201.11(1)** Funds shall be applied to the cost of presubsidy maintenance and special services from the unearned income of the child.

**201.11(2)** The department shall serve as payee to receive the child's unearned income. The income shall be placed in an account from whence it shall be applied toward the cost of the child's current care and the remainder placed in an escrow account.

**201.11(3)** When a child has funds in escrow these funds may be used by the department to meet the current needs of the child not covered by the presubsidy payments and not prohibited by the source of the funds.

**201.11(4)** When the child leaves presubsidy care, funds in the escrow shall be paid to the adoptive parents, or to the child if the child has attained the age of majority.

These rules are intended to implement Iowa Code sections 600.17 to 600.21 and 600.23; and 1999 Iowa Acts, House File 760, section 33, subsection 5.

[Filed 2/23/72]
[Filed 4/13/77, Notice 2/23/77—published 5/4/77, effective 6/8/77]
[Filed 3/25/83, Notice 1/19/83—published 4/13/83, effective 6/1/83]
[Filed emergency 6/17/83—published 7/6/83, effective 7/1/83]
[Filed emergency 2/10/84—published 2/29/84, effective 2/10/84]
[Filed emergency 1/15/87—published 2/11/87, effective 1/15/87]
[Filed 1/21/88, Notice 12/16/87—published 2/10/88, effective 4/1/88]
[Filed 4/14/89, Notice 3/8/89—published 5/3/89, effective 7/1/89]
[Filed 9/15/89, Notice 7/26/89—published 10/4/89, effective 12/1/89]
[Filed 1/17/91, Notice 11/28/90—published 2/6/91, effective 4/1/91]
[Filed 11/15/91, Notice 9/18/91—published 12/11/91, effective 2/1/92]
[Filed emergency 6/11/92—published 7/8/92, effective 7/1/92]
[Filed 8/14/92, Notice 7/8/92—published 9/2/92, effective 10/7/92]
[Filed 5/14/93, Notice 3/31/93—published 6/9/93, effective 8/1/93]
[Filed 9/17/93, Notice 7/21/93—published 10/13/93, effective 1/1/94]
[Filed emergency 6/16/94—published 7/6/94, effective 7/1/94]
[Filed 8/12/94, Notice 7/6/94—published 8/31/94, effective 11/1/94]
[Filed 4/13/95, Notice 2/15/95—published 5/10/95, effective 7/1/95]
[Filed emergency 6/7/95—published 7/5/95, effective 7/1/95]
[Filed 8/10/95, Notice 7/5/95—published 8/30/95, effective 11/1/95]
[Filed emergency 6/13/96—published 7/3/96, effective 7/1/96]
[Filed 8/15/96, Notice 7/3/96—published 9/11/96, effective 11/1/96]
[Filed emergency 6/12/97—published 7/2/97, effective 7/1/97]
[Filed 8/13/97, Notice 7/2/97—published 9/10/97, effective 11/1/97]
[Filed emergency 6/10/98—published 7/1/98, effective 7/1/98]
[Filed 8/12/98, Notice 7/1/98—published 9/9/98, effective 11/1/98]
[Filed emergency 6/10/99—published 6/30/99, effective 7/1/99]

# STATE PUBLIC DEFENDER[493]

Created within the Department of Inspections and Appeals[481] by Iowa Code section 13B.2


CHAPTER 1
ADMINISTRATION

1.1(13B) Function
1.2(13B) Definitions
1.3(13B) Overall organization and method of operations
1.4 Reserved
1.5(13B) Information

CHAPTER 2
PETITIONS FOR RULE MAKING
(Uniform Rules)

2.1(17A) Petition for rule making
2.3(17A) Inquiries

CHAPTER 3
DECLARATORY ORDERS
(Uniform Rules)

3.1(17A) Petition for declaratory order
3.2(17A) Notice of petition
3.3(17A) Intervention
3.4(17A) Briefs
3.5(17A) Inquiries
3.6(17A) Service and filing of petitions and other papers
3.7(17A) Consideration
3.8(17A) Action on petition
3.9(17A) Refusal to issue order
3.12(17A) Effect of a declaratory order

CHAPTER 4
PUBLIC RECORDS AND
FAIR INFORMATION PRACTICES
(Uniform Rules)

4.1(17A,22) Definitions
4.3(17A,22) Requests for access to records
4.6(17A,22) Procedures by which additions, dissents, or objections may be entered into certain records
4.9(17A,22) Disclosures without the consent of the subject
4.10(17A,22) Routine use
4.11(17A,22) Consensual disclosure of confidential records
4.12(17A,22) Release to subject
4.13(17A,22) Availability of records
4.14(22) Personally identifiable information
4.15(17A,22) Other groups of records

CHAPTER 5
AGENCY PROCEDURE
FOR RULE MAKING
(Uniform Rules)

5.3(17A) Public rule-making docket
5.4(17A) Notice of proposed rule making
5.5(17A) Public participation
5.6(17A) Regulatory analysis
5.10(17A) Exemptions from public rule-making procedures
5.11(17A) Concise statement of reasons
5.13(17A) Agency rule-making record

CHAPTERS 6 to 9
Reserved

CHAPTER 10
CONTRACTS FOR
INDIGENT DEFENSE SERVICES

10.1(13B) Definitions
10.2(13B) Contracts
10.3(13B) Submission of proposed contract
10.4(13B) Contract approval or rejection
10.5(13B) Contract elements
10.6(13B) Contract renewal
10.7(13B) Contract termination
10.8(13B) Appeals
10.9(13B) Payment for services
10.10(13B) Reporting requirements
10.11(13B) Records

CHAPTER 11
INDIGENT DEFENSE CONTRACTS

11.1(13B) Definitions
11.2(13B) Contracts
11.3(13B) Notice of proposed contract
11.4(13B) Contract approval or rejection
11.5(13B) Contract elements
11.6(13B) Appellate contracts
11.7(13B) Contract renewal
11.8(13B) Contract termination
11.9(13B) Appeals
11.10(13B) Applicability

CHAPTER 12
CLAIMS FOR INDIGENT DEFENSE
LEGAL SERVICES

12.1(13B,815) Definitions
12.2(13B,815) Submission and payment of claims
12.3(13B,815) Interim claims
12.4(13B,815) Fee limitations
12.5(13B,815) Rate of compensation
12.6(13B,815) Reimbursement for specific expenses
12.7(13B,815) Reimbursement of other expenses

CHAPTER 13
COURT-APPOINTED COUNSEL—
ELIGIBILITY GUIDELINES

13.1(815) Definitions
13.2(815) Eligibility
13.3(815) Income guidelines
13.4(815) Designation of eligibility reviewer
13.5(815) Application
13.6(815) Evaluation of Affidavit of Financial Status
13.7(815) Payment procedures

*a.* The date on which the contracting attorney was appointed by the court to handle the case, the type of juvenile action or the offense charged, whether the offense is a felony or misdemeanor (together with the type of felony or misdemeanor), and the Iowa Code section(s) alleged to have been violated or under which the juvenile action was taken.

*b.* The number of hours claimed which were spent on research, the number of hours claimed which were spent in actual deposition taking, the number of hours claimed which were spent on other (regular) legal work, the number of paralegal hours claimed, the actual expenses incurred, and the total amount of money claimed.

**10.10(2)** *Disposition.* Each itemization shall contain a statement explaining how the case was resolved.

**10.10(3)** *Itemization.* The contracting attorney shall submit an itemization of all time spent on the case and a detailed itemization of expenses claimed when filing the claim. If the attorney has submitted prior claims in the same case, information concerning the date on which those claims were submitted and any amounts paid on those claims shall be provided.

**10.10(4)** *Court orders.* A copy of the order appointing the contracting attorney to the case and all other court order(s) which might affect the claim shall be provided when filing the claim.

**10.10(5)** *Other information.* The contracting attorney shall also provide any other information which the state public defender deems relevant to an appropriate evaluation of the claim.

**493—10.11(13B) Records.** The contracting attorney shall maintain records of all financial and statistical information relating to the contract for a period of five years following the date of final payment or completion of any required audit, whichever is earlier. Each contracting attorney shall maintain sufficient financial and statistical records to document the validity of the reports submitted to the state public defender. Records shall be provided to the state public defender, the auditor of the state of Iowa, or to any other authorized representative of the state of Iowa upon request.

These rules are intended to implement Iowa Code sections 13B.4 and 815.10.

[Filed emergency 10/7/92 after Notice 8/19/92—published 10/28/92, effective 10/7/92]
[Filed emergency 7/1/93 after Notice 4/14/93—published 7/21/93, effective 7/1/93]
[Filed emergency 1/21/97—published 2/12/97, effective 1/21/97]
[Filed 7/11/97, Notice 4/9/97—published 7/30/97, effective 9/3/97]

# CHAPTER 11
# INDIGENT DEFENSE CONTRACTS

**493—11.1(13B) Definitions.**

*"Attorney"* means an individual licensed to practice law by the Iowa Supreme Court.

*"Attorney time"* means the total time an attorney appointed to a case spends in court, out of court, and in travel time attributable to a specific case.

*"Case"* means all allegations or charges arising from the same transaction or occurrence contained in the same trial information or indictment in a criminal proceeding or in the same petition in a civil or juvenile proceeding.

*"Contract"* means a written agreement between the state public defender and an attorney.

*"Fees"* means the consideration paid to an attorney appointed by the court to represent an indigent.

*"In-court time"* means time spent by an attorney appointed to a case engaged before a judge or jury in arraignments, bail hearings, pretrial conferences, pretrial motion hearings, evidentiary hearings, jury selection, trial, plea proceedings, posttrial hearings, and probation violation hearings.

*"Indigent"* means a person entitled to legal representation as defined in Iowa Code section 815.9 as amended by 1999 Iowa Acts, Senate File 451, section 27.

*"Out-of-court time"* means time actually spent by the attorney appointed to a case in drafting documents, case preparation, depositions and other discovery, client or witness interviews, investigation, research, brief drafting, conferences or negotiations with opposing counsel or the court, obtaining or reviewing records, and other productive case-related time that is not "in-court time" or "travel time."

*"Paralegal time"* means time actually spent by someone other than an attorney appointed to a case which would be "out-of-court time" if performed by the attorney appointed to a case with the following exceptions. Paralegal time does not include any time spent on the case if the attorney appointed to the case also charges for the same activity. Paralegal time does not include time spent making photocopies, sending faxes, answering phones, or other clerical activities.

*"Travel time"* means the reasonable and necessary time spent by the attorney in automobile travel under one of the following circumstances:

1. To and from the scene of a crime;
2. To and from the location of a trial, if the venue has been changed from the county in which the crime occurred;
3. To and from the place of incarceration of a client in a postconviction relief case, criminal appeal, or postconviction relief appeal;
4. To and from the location of the placement of a child in a juvenile case, if required by statute and court order to visit the placement and the placement is outside the county in which the case is pending; or
5. Other automobile travel for which prior written authorization is obtained from the state public defender.

**493—11.2(13B) Contracts.** An attorney may enter into a contract with the state public defender for the provision of legal services to indigent persons.

**11.2(1)** To be eligible to contract with the state public defender, an attorney must be licensed to practice law in the state of Iowa.

**11.2(2)** A copy of an original contract is available from the Office of the State Public Defender, Lucas State Office Building, Des Moines, Iowa 50319-0087; by telephoning (515)242-6158; or by accessing the state public defender Web page at www.spd.state.ia.us.

**493—11.3(13B) Notice of proposed contract.** The state public defender will give notice to attorneys of the availability of contracts for indigent defense services in a manner reasonably calculated to make attorneys aware of the availability of the contracts.

**493—11.4(13B) Contract approval or rejection.**

**11.4(1)** The state public defender may confer with judges, attorneys and others with knowledge of the potential contracting attorney's competence, effectiveness, trustworthiness, or ability to provide services to eligible individuals. The information received may be taken into consideration in determining whether to enter into a contract with a potential contracting attorney.

**11.4(2)** The state public defender may hold discussions with, or otherwise obtain information from, potential contracting attorneys to determine their qualifications and ability to perform the conditions of the contract.

**11.4(3)** The state public defender may hold discussions with, or otherwise obtain information from, potential contracting attorneys to establish the types of cases the contracting attorney will handle and the geographic area in which the cases will be handled.

**11.4(4)** The state public defender may decline to award a contract to a proposed contracting attorney if the state public defender receives information from credible sources that the attorney is not competent, effective or trustworthy, or is not appropriate to provide the services for some other pertinent reason. The state public defender shall give written notice of this action to the attorney. The attorney may appeal this decision in the manner prescribed in rule 11.9(13B).

**11.4(5)** Nothing contained in this rule shall obligate the state public defender to enter into any contract if the state public defender determines that it is not in the best interests of the state to enter into such contract.

**493—11.5(13B) Contract elements.**

**11.5(1)** A contract with a private attorney may be awarded for the provision of trial or appellate legal services to indigents in cases as determined by the state public defender.

**11.5(2)** A contract can only be in force and effect when signed by the contracting attorney and approved by the state public defender.

**11.5(3)** The contracting attorney shall be an independent contractor and shall not be an agent or employee of the state of Iowa or of the state public defender. The attorney shall exercise the attorney's best independent professional judgment on behalf of clients to whom the attorney is assigned.

**11.5(4)** Once a contract has been awarded, the state public defender shall notify the court administrator of the district and clerks of court of the counties in which the contracting attorney has agreed to provide services.

**11.5(5)** A contract with a private attorney shall cover, but not be limited to, the following subjects:

*a.* The categories of cases in which the attorney is to provide services;

*b.* The term of the contract and the responsibility of the attorney for provision of services in cases undertaken pursuant to the contract;

*c.* Identification of the attorney(s) who will perform legal representation under the contract;

*d.* A prohibition against assignment of the obligations undertaken pursuant to the contract, including a prohibition against substitution of counsel without prior consent of the state public defender or the court;

*e.* The qualifications of the contracting attorney to undertake legal representation pursuant to the contract;

*f.* A description of the compensation to be paid and the manner of payment;

*g.* A description of any expenses, such as support services, investigative services and expert witness expenses, which may be provided under the contract;

*h.* A description of the record-keeping and reporting requirements under the contract;

*i.* A description of the manner in which the contract may be terminated;

*j.* A description of the manner of disposition of ongoing obligations following termination.

**11.5(6)** Compensation. Unless an attorney has a contract with the state public defender that provides for a different manner or rate of payment, the following hourly rates shall apply to payment of services rendered at the trial level in all cases to which the attorney is appointed after June 30, 1999:

| | | Out-of-Court Time | In-Court Time |
|---|---|---|---|
| Attorney time | Class A felonies | $60/hour | $60/hour |
| | Class B felonies | $55/hour | $55/hour |
| | All other cases | $50/hour | $50/hour |
| Paralegal time | | $25/hour | N/A |

In addition to this compensation, contract attorneys shall be entitled to payment and reimbursement for expenses to the extent provided in 493—Chapter 12.

**11.5(7)** Applicability to juvenile cases. In juvenile cases to which the attorney was appointed prior to July 1, 1999, the state public defender will pay the attorney at the above-referenced rate for all services performed following the dispositional hearing or the first regularly scheduled review hearing occurring after June 30, 1999. However, the attorney must file a separate claim for services before and after said hearing.

**11.5(8)** Appointments before July 1, 1999. Except as provided in subrule 11.5(7), in cases in which the attorney was appointed prior to July 1, 1999, attorney time shall be paid at a rate that is $5 per hour less than the above rates.

**493—11.6(13B) Appellate contracts.** Subject to the provisions of this rule, attorneys who have entered into a contract with the state public defender shall be paid $1,500 for each appellate case to which the attorney is appointed. One thousand dollars is payable following submission of the contract attorney's proof brief; the remainder, at the conclusion of the case.

**11.6(1)** *Frivolous appeals.* In appeals in which the attorney withdraws, based on a determination that the appeal is frivolous or in which the appeal is dismissed prior to the filing of the attorney's proof brief, the attorney shall be paid at the rate of $50 per hour with a maximum fee of $750 in each case.

**11.6(2)** *Unusually complicated cases.* In appeals that are unusually complicated, the attorney may negotiate with the state public defender for a fee in excess of the fees contained in this rule. However, this does not require the state public defender to agree to a higher fee in any particular case. The term "unusually complicated" as used in this rule means that the case is highly exceptional and complex from a legal or factual perspective and so atypical as to be beyond the purview of both the attorney and the state public defender. A case is not considered unusually complicated merely because the client is difficult to work with or because the case took longer than the attorney anticipated. Cases in which an application for further review is filed are generally deemed to be "atypical" as that term is used in this rule.

**493—11.7(13B) Contract renewal.** Prior to renewal of any contract, the state public defender may contact judges, attorneys, court personnel, and others to determine if any existing contract is being properly fulfilled. If the state public defender has determined that a contract renewal is in the best interests of the state, the state public defender may offer a new contract to the contracting attorney. The contracting attorney may accept the new contract by signing the same and returning the signed contract to the state public defender within 30 days of the date on which the contract is submitted to the contracting attorney. If a contracting attorney is not offered a contract renewal, the state public defender shall give the contracting attorney written notice of this action. The attorney may appeal this decision in the manner prescribed in rule 493—11.9(13B).

**493—11.8(13B) Contract termination.** Either the state public defender or the contract attorney upon 30 days' notice in any of the following instances may terminate any contract:

1. Mutual agreement of the parties;
2. Failure of appropriation or sufficient funds available to continue the services;
3. Failure to make required reporting;
4. Failure to abide by the provisions of the contract;
5. Repeated submission of inappropriate claims;
6. Good cause.

The terminating party shall notify the other party in writing not less than 30 days before the date of termination except in an emergency situation wherein the contract can be terminated upon notice of termination. An emergency situation would exist if the contracting attorney could no longer provide the service or in any situation which would have rendered the contracting attorney originally ineligible for the contract. The attorney may appeal any termination in the manner prescribed in rule 493—11.9(13B).

Upon termination of the contract, the cases currently assigned to the attorney shall be handled as provided in the contract.

**493—11.9(13B) Appeals.** An appeal is perfected by giving written notice of appeal to the state public defender within ten days of receipt of notice of the action. The notice of appeal shall state the grounds upon which the attorney challenges the action. Upon receipt of the appeal, the state public defender shall hold a hearing and may uphold, reverse or modify the prior decision. The decision following the hearing shall be made in writing and shall set forth all of the findings relied upon in making the decision. If an attorney remains aggrieved by the decision, the attorney may seek judicial review of the decision.

**493—11.10(13B) Applicability.** This chapter shall apply to contracts with an effective date on or after July 1, 1999.

These rules are intended to implement Iowa Code chapter 13B as amended by 1999 Iowa Acts, Senate File 451.

[Filed emergency 6/10/99—published 6/30/99, effective 7/1/99]

# CHAPTER 12
# CLAIMS FOR INDIGENT DEFENSE LEGAL SERVICES

**493—12.1(13B,815) Definitions.**

*"Attorney"* means an individual licensed to practice law by the Iowa Supreme Court.

*"Attorney time"* means the total time an attorney appointed to a case spends on in-court time, out-of-court time, and travel time attributable to that specific case.

*"Case"* means all charges or allegations arising from the same transaction or occurrence contained in the same trial information or indictment in a criminal proceeding or in the same petition in a civil or juvenile proceeding.

*"Court-appointed attorney"* means an attorney appointed by the court to represent an indigent person whether or not the attorney has a contract with the state public defender.

*"Fee limitations"* means the limitations established by the state public defender for specific classes of cases.

*"Fees"* means the consideration paid to an attorney appointed by the court to represent an indigent.

*"Good cause"* means a sound, effective and truthful reason. It is something more than an excuse, plea, apology, extenuation, or some justification. Inadvertence or oversight does not constitute good cause.

*"In-court time"* means time spent by the attorney appointed to a case engaged before a judge or jury in arraignments, bail hearings, pretrial conferences, pretrial motion hearings, evidentiary hearings, jury selection, trial, plea proceedings, posttrial hearings, and probation violation hearings.

*"Indigent"* means a person entitled to legal representation as defined in Iowa Code section 815.9 as amended by 1999 Iowa Acts, Senate File 451, section 27.

*"Out-of-court time"* means time actually spent by the attorney appointed to the case in drafting documents, case preparation, depositions and other discovery, client or witness interviews, investigation, research, brief drafting, conferences or negotiations with opposing counsel or the court, obtaining or reviewing records, and other productive case-related time that is not "in-court time" or "travel time."

*"Paralegal time"* means time actually spent by someone other than the attorney appointed to the case which would be "out-of-court time" if performed by the attorney appointed to the case with the following exceptions. Paralegal time does not include any time spent on the case if the attorney appointed to the case also charges for the same activity. In addition, paralegal time does not include time spent making photocopies, sending faxes, mailing documents, answering phones, scheduling, or other similar clerical activities.

*"Travel time"* means the reasonable and necessary time spent by the attorney in automobile travel under one of the following circumstances:

1. To and from the scene of a crime;
2. To and from the location of a trial, if the venue has been changed from the county in which the crime occurred;
3. To and from the place of incarceration of a client in a postconviction relief case, criminal appeal, or postconviction relief appeal;
4. To and from the location of the placement of a child in a juvenile case, if required by statute and court order to visit the placement and the placement is outside the county in which the case is pending; or
5. Other travel for which prior authorization is obtained from the state public defender.

*"Written"* as used in these rules may include electronically transmitted communication to the extent permitted by subsequent rules of the state public defender.

**493—12.2(13B,815) Submission and payment of claims.** Court-appointed attorneys shall submit written claims to the state public defender for review, approval and payment. These claims shall include the following:

1. A completed request for compensation on a form promulgated by the state public defender.
2. A copy of the signed order appointing the attorney to the case.
3. A copy of any application and court order authorizing the attorney to exceed the fee limitations.
4. An itemization detailing all work done on the case for which the attorney seeks compensation. The itemization shall separately report time claimed for in-court time and out-of-court time.
5. A certification by the attorney that a copy of the itemization has been filed with the clerk of the trial court.
6. A statement of the disposition of the case.
7. If the claim is an interim claim, a statement of the total amount paid on all prior claims filed in the case.

Payment for services shall be made only after all reporting requirements have been complied with and the claim has been approved by the state public defender.

**493—12.3(13B,815) Interim claims.** Approval of or payment of any interim claim shall not affect the right of the state public defender to review any subsequent claims or the aggregate amount of the claims submitted. Claims will be paid only at the conclusion of the case, unless one of the following applies:

**12.3(1)** *Juvenile cases.* Initial claims for services in juvenile cases may be submitted after the dispositional hearing, if any. Subsequent claims may be submitted after each hearing held in the case.

**12.3(2)** *Appellate cases.* A claim for work done to date by an attorney having an appellate contract with the state public defender may be submitted in appellate cases after filing of the attorney's proof brief. A subsequent claim may be submitted at the conclusion of the case.

**12.3(3)** *Specific cases.* Interim claims in Class A felony cases, Class B felony cases, cases under Iowa Code chapter 229A, and cases defined in Iowa Code section 902.12 may be submitted once every three months with the first claim submitted at least 90 days following the effective date of the attorney's appointment.

**12.3(4)** *Other cases.* In all other cases, claims filed prior to the conclusion of the case will not be paid except with prior written consent of the state public defender.

**493—12.4(13B,815) Fee limitations.** The state public defender establishes fee limitations for combined attorney time and paralegal time in the following particular categories of cases:

| | |
|---|---|
| Class A felonies | $15,000 |
| Charges defined in Iowa Code section 902.12 | $3,500 |
| Class B felonies | $3,000 |
| Class C felonies | $1,200 |
| Class D felonies | $1,000 |
| Aggravated misdemeanors | $1,000 |
| Serious misdemeanors | $500 |
| Simple misdemeanors | $200 |
| Contempt/show cause proceedings | $200 |
| Proceedings under Iowa Code chapter 229A | $10,000 |
| Probation violation | $250 |
| Delinquency (through disposition) | $1,000 |
| Child in need of assistance (CINA) (through disposition) | $1,000 |
| Termination of parental rights (through disposition) | $1,500 |
| Juvenile review hearings (postdispositional hearings) | $200 |
| Judicial bypass hearings | $150 |
| Appeals to supreme court | $2,000 |
| Postconviction relief—the greater of $1,000 or 1/2 of charge for which relief is sought | |

**12.4(1)** *Claims in excess of fee limitations.* Claims will not be paid in excess of the fee limitations unless an attorney seeks and obtains authorization from the appointing court to exceed the fee limitations prior to exceeding the fee limitations. If authorization to exceed the fee limitations is granted, payments in excess of the fee limitations shall be made only for services performed after the date of submission of the request for authorization to exceed the fee limitations.

Nothing contained in this subrule is intended to in any manner diminish, increase, or modify the state public defender's authority to review any and all claims for services as authorized by the Iowa Code.

**12.4(2)** *Retroactivity of authorization.* Authorization to exceed the fee limitations shall be effective only as to services performed after an application to exceed the fee limitations is filed with the court unless the court enters an order specifically authorizing a late filing of the application and finding that good cause exists that excuses the attorney's failure to timely file the application to exceed the fee limitations.

**12.4(3)** *Applicability to juvenile cases.* For a child in need of assistance case that becomes a termination of parental rights case, the fee limitations shall apply to each phase of the case separately.

**493—12.5(13B,815) Rate of compensation.** Unless an attorney has a contract with the state public defender that provides for a different manner or rate of payment, the following hourly rates are deemed reasonable compensation and shall apply to payment of all claims for cases to which an attorney is appointed after June 30, 1999:

| | | Out-of-Court Time | In-Court Time |
|---|---|---|---|
| Attorney time | Class A felonies | $60/hour | $60/hour |
| | Class B felonies | $55/hour | $55/hour |
| | All other cases, including all appeals | $50/hour | $50/hour |
| Paralegal time | | $25/hour | N/A |

Claims for compensation in excess of these rates are not payable under the attorney's appointment and will be reduced pursuant to 1999 Iowa Acts, Senate File 451, section 5.

Claims for services rendered prior to the effective date of the attorney's appointment are not payable under the attorney's appointment and will be reduced pursuant to 1999 Iowa Acts, Senate File 451, section 5.

**12.5(1)** *Appointments before July 1, 1999.* In cases to which the attorney was appointed prior to July 1, 1999, attorney time shall be paid at a rate that is $5 per hour less than the above rates.

Claims for compensation in excess of these rates are not payable under the attorney's appointment and will be reduced pursuant to 1999 Iowa Acts, Senate File 451, section 5.

**12.5(2)** *Applicability to juvenile cases.* In juvenile cases to which the attorney was appointed prior to July 1, 1999, the state public defender will pay the attorney at the above-referenced rate in the table above for all services performed following the dispositional hearing or the first regularly scheduled review hearing occurring after June 30, 1999. However, the attorney must file a separate claim for services before and after said hearing.

**493—12.6(13B,815) Reimbursement for specific expenses.** The state public defender will reimburse the attorney for the payments made by the attorney to investigators, court reporters and expert witnesses if the following conditions exist:

1. The attorney obtained court approval to conduct depositions or hire an investigator or expert witness prior to incurring any expenses with regard to each.
2. A copy of the application and order granting authority accompanies the claim.
3. The investigator, court reporter or expert witness does not submit a claim for the same services.
4. The attorney is seeking reimbursement for moneys already expended or certifies that the funds for these services will be paid to the investigator, court reporter or expert witness.

Claims for expenses that do not meet these conditions are not payable under the attorney's appointment and will be denied pursuant to 1999 Iowa Acts, Senate File 451, section 5.

**493—12.7(13B,815) Reimbursement of other expenses.** The state public defender will reimburse an attorney for the following out-of-pocket expenses incurred by the attorney in the case:

1. Mileage for travel outside the county in which the attorney's office is located at the rate of 24 cents per mile;
2. Lodging and meals, when required to be away from one's home overnight for hearings and trials at the state-approved rate;
3. Necessary photocopying at the attorney's office at the rate of 10 cents per copy;

4. Photocopying for which the attorney must pay at the actual cost of photocopying;
5. Postage, toll calls, collect calls, faxes and parking for the actual cost of these expenses;
6. Other specific expenses for which prior approval by the state public defender is obtained.

Claims for expenses other than these or at rates in excess of the rates set forth herein are not payable under the attorney's appointment and will be reduced or denied pursuant to 1999 Iowa Acts, Senate File 451, section 5.

These rules are intended to implement Iowa Code chapters 13B and 815 as amended by 1999 Iowa Acts, Senate File 451.

[Filed emergency 6/10/99—published 6/30/99, effective 7/1/99]

# CHAPTER 13
# COURT-APPOINTED COUNSEL—ELIGIBILITY GUIDELINES

**493—13.1(815) Definitions.** As used in these rules, unless the context otherwise requires, the following definitions apply:

*"Affidavit of financial status"* means a full written disclosure of all income, assets, liabilities, dependents, and other information required to determine if an applicant qualifies for legal assistance by an appointed attorney.

*"Applicant"* means a person requesting legal assistance by appointed counsel.

*"Assets"* means all resources or possessions of the applicant.

*"Child"* or *"juvenile"* means a person so defined in Iowa Code chapter 232.

*"Family"* or *"household"* includes the applicant, applicant's spouse, including a common-law spouse and applicant's children living in the same residence.

*"Governmental assistance program"* means any public assistance program from which a person is receiving assistance.

*"Income"* means any money received from any source, including but not limited to remuneration for labor, products or services; money received from governmental assistance programs; tax refunds; prize winnings; pensions; investments; and money received from any other source.

*"Liabilities"* includes all living expenses, business or farming expenses, and fixed debts.

*"Poverty income guidelines"* means the annual poverty income guidelines established by the United States Department of Health and Human Services (DHHS).

**493—13.2(815) Eligibility.** The eligibility of any person for legal assistance by an appointed attorney shall be determined in accordance with Iowa Code section 815.9 as amended by 1999 Iowa Acts, Senate File 451, section 27, and the guidelines set forth in these rules. Any person who is eligible for appointed counsel shall be required by the court to repay all or a part of the cost of the applicant's legal assistance.

**493—13.3(815) Income guidelines.** Annually, the state public defender shall provide information to the court showing the most recently revised poverty income guidelines.

**493—13.4(815) Designation of eligibility reviewer.** The chief judge of each judicial district may designate the person(s) or entity to evaluate the eligibility of persons for legal assistance by an appointed attorney. However, the decision to appoint counsel remains with the court.

**493—13.5(815) Application.** Any person claiming to be entitled to legal representation by an appointed attorney shall have an indigency evaluation done before being provided legal representation. The applicant should provide information on an Affidavit of Financial Status/Application for Appointment of Counsel and Order form. This form will be prescribed by the state public defender, but any form containing substantially the same information will be accepted.

13.5(1) *Affidavit.* The applicant shall provide information required by the Affidavit of Financial Status under penalty of perjury.

**13.5(2)** *Family.* The applicant shall provide information that accurately represents the number of family members who are supported by or live with the applicant.

**13.5(3)** *Income.* The applicant shall provide information that accurately represents the total gross income received or reasonably anticipated to be received by the applicant.

**13.5(4)** *Household income.* The applicant shall provide information that accurately represents the gross income of the household in which the applicant lives. The income of a spouse need not be included if the spouse is the alleged victim in the offense charged. The income of a child member of the household need not be included unless the legal representation is sought for the child in a delinquency proceeding.

**13.5(5)** *Assets.* The applicant shall provide information that accurately represents the total assets owned, in whole or in part, by the applicant. This includes the requirement to disclose interest in real property and tangible and intangible personal property.

**13.5(6)** *Liabilities.* The applicant shall provide information that accurately represents the total monthly debts and expenses for which the applicant is responsible. Child support and alimony payments should be included only when payments have been made in a timely manner.

**13.5(7)** *Nature of proceedings.* In criminal cases, the Affidavit of Financial Status shall contain a statement of the charge(s) against the defendant. In juvenile or civil cases, a statement of the nature of the proceedings shall be included.

**13.5(8)** *Child applicant.* If the applicant is a child, the child's parent, guardian or custodian shall complete the Affidavit of Financial Status. The Affidavit of Financial Status shall include a statement of the income, assets and liabilities of the person or persons having a legal obligation to support the child.

**13.5(9)** *Additional information.* The applicant shall provide such additional information as may be required by the court to determine applicant's eligibility for appointed counsel. The applicant has a continuing duty to update information provided in the Affidavit of Financial Status to reflect changes in the information previously provided.

**493—13.6(815) Evaluation of Affidavit of Financial Status.** In determining whether counsel should be appointed to represent the applicant, the court should consider the following:

**13.6(1)** *Family size.* The total size of applicant's household shall be used to determine eligibility for appointed counsel.

**13.6(2)** *Household income.* The applicant's income, or the combined income of the applicant and the applicant's spouse, if living in the same residence, shall be used in determining an applicant's household income, subject to the following:

*a.* The income of applicant's spouse shall not be considered if the spouse is the alleged victim of the offense charged.

*b.* The income of a child should not be considered unless the child is requesting representation in a delinquency case, or unless the child is under a conservatorship or is the beneficiary of trust proceeds.

*c.* In juvenile proceedings, the income of both parents shall be considered to determine whether the child is entitled to appointed counsel. If a child's parents are divorced, the household income of each parent shall be considered separately.

**13.6(3)** *DHHS poverty income guidelines.* The applicant's family size and household income shall be compared to the DHHS poverty income guidelines to determine whether the applicant's household income is less than 125 percent of the poverty level; between 125 percent and 200 percent of the poverty level; or greater than 200 percent of the poverty level.

**13.6(4)** *Income less than 125 percent of the poverty level.* If the applicant's household income is less than 125 percent of the poverty level, the applicant is entitled to appointed counsel, unless the court determines that the applicant is able to pay for the cost of an attorney to represent the applicant on the pending charge. In determining whether the applicant is able to pay for the cost of an attorney, the court should consider not only the applicant's income, but also the availability of any assets subject to execution and the seriousness of the charge.

**13.6(5)** *Income between 125 percent and 200 percent of the poverty level.* If the applicant's household income is greater than 125 percent, but less than 200 percent of the poverty level, the applicant is not entitled to appointed counsel, unless the court determines and makes a written finding that not appointing counsel on the pending charge would cause the applicant substantial hardship. In determining whether substantial hardship would result, the court should consider not only the applicant's income, but also the availability of any assets subject to execution and the seriousness of the charge.

**13.6(6)** *Income greater than 200 percent of the poverty level.* If the applicant's household income is greater than 200 percent of the poverty level, the applicant is not entitled to appointed counsel, unless the applicant is charged with a felony and the court determines and makes a written finding that not appointing counsel on the pending charge would cause the applicant substantial hardship. In determining whether substantial hardship would result, the court should consider not only the applicant's income, but also the availability of any assets subject to execution and the seriousness of the charge.

**493—13.7(815) Payment procedures.**

**13.7(1)** *Payment to clerk.* An applicant who has been determined to be eligible for appointed counsel shall pay any sums ordered by the court to the office of the clerk of the district court. This order for payment may be entered during or following the pendency of the action.

**13.7(2)** *Wage assignments.* If the applicant is employed, the applicant shall execute an assignment of applicant's wages. A portion of the applicant's wages, as determined by the court, shall be paid to the office of the clerk of district court for recovery of attorney fees. This assignment of wages may be entered during or following the pendency of the action.

These rules are intended to implement Iowa Code section 815.9 as amended by 1999 Iowa Acts, Senate File 451, section 27.

[Filed emergency 9/1/93—published 9/29/93, effective 9/1/93]
[Filed emergency 1/21/97—published 2/12/97, effective 1/21/97]
[Filed emergency 6/10/99—published 6/30/99, effective 7/1/99]

CHAPTER 15
BENEFITS
15.1(19A) Health benefits
15.2(19A) Dental insurance
15.3(19A) Life insurance
15.4(19A) Long-term disability insurance
15.5(19A) Health benefit appeals
15.6(19A) Deferred compensation
15.7(19A) Dependent care
15.8(19A) Premium conversion plan (pretax program)
15.9(19A) Interviewing and moving expense reimbursement
15.10(19A) Education financial assistance
15.11(19A) Particular contracts governing
15.12(19A) Tax-sheltered annuities (TSA)

CHAPTER 16
POLITICAL ACTIVITY
16.1(19A) Political activity of employees
16.2(19A) Restrictions on political activity of employees
16.3(19A) Application of Hatch Act

CHAPTER 17
PUBLIC RECORDS AND FAIR INFORMATION PRACTICES
17.1(19A) Definitions
17.2(19A) Statement of policy, purpose and scope
17.3(19A) Requests for access to records
17.4(19A) Access to confidential records
17.5(19A) Requests for treatment of a record as a confidential record and its withholding from examination
17.6(19A) Procedure by which a person who is the subject of a record may have additions, dissents, or objections entered into a record.
17.7(19A) Consent to disclosure by the subject of a confidential record
17.8(19A) Notice to suppliers of information
17.9(19A) Disclosures without the consent of the subject
17.10(19A) Routine use
17.11(19A) Consensual disclosure of confidential records
17.12(19A) Release to subject
17.13(19A) Availability of records
17.14(19A) Personally identifiable information
17.15(19A) Other groups of records routinely available for public inspection
17.16(19A) Comparison of data processing systems
17.17(19A) Applicability
17.18(19A) Agency records

CHAPTER 18
CONDUCT OF EMPLOYEES
18.1(19A) General
18.2(68B) Selling of goods or services
18.3(68B) Outside employment or activity
18.4(19A) Performance of duty
18.5(19A) Prohibitions relating to certain actions by state employees

CHAPTER 19
GENERAL ADMINISTRATION
19.1(19A) State system of personnel
19.2(19A) Petition for declaratory order
19.3(17A) Notice of petition
19.4(17A) Intervention
19.5(17A) Briefs
19.6(17A) Inquiries
19.7(17A) Service and filing of petitions and other papers
19.8(17A) Informal meeting
19.9(17A) Action on petition
19.10(17A) Refusal to issue order
19.11(17A) Contents of declaratory order—effective date
19.12(17A) Copies of orders
19.13(17A) Effect of a declaratory order
19.14(17A,19A) Petition for rule making
19.15 Reserved
19.16(19A) Drug use and drug tests

CHAPTER 20
EQUAL EMPLOYMENT OPPORTUNITY AND AFFIRMATIVE ACTION
20.1(19B) Definitions
20.2(19B) Plans, policies and records
20.3(19B) Planning standards
20.4(19B) Dissemination
20.5(19B) Reports

20.6(19B) Discrimination complaints, including disability-related and sexual harassment complaints

CHAPTER 21
IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM

21.1(97B) Organization
21.2(97B) Records to be kept by the employer
21.3(97B) Liable employers
21.4(97B) Definition of wages for employment during the calendar quarter—other definitions
21.5(97B) Identification of employees covered by the IPERS retirement law
21.6(97B) Wage reporting and payment of contributions by employers
21.7(97B) Accrual of interest
21.8(97B) Refunds and returns of erroneously paid contributions
21.9(97B) Appeals
21.10(97B) Beneficiaries
21.11(97B) Application for benefits
21.12(97B) Service credit
21.13(97B) Calculation of monthly retirement benefits
21.14(97B) Interest on accumulated contributions
21.15(97B) Forgery claims
21.16(97B) Approved leave periods
21.17(97B) Membership status
21.18(97B) Retirement dates
21.19(97B) Wage-earning disqualifications for retired members
21.20(97B) Identification of agents
21.21(97B) Actuarial equivalent (AE) payments
21.22(97B) Disability
21.23(97B) Confidentiality of records
21.24(97B) Service buy-in/buy-back
21.25 Reserved
21.26(97B) Garnishments and income withholding orders
21.27(97B) Rollovers
21.28(97B) Offsets against amounts payable
21.29(97B) Qualified domestic relations orders
21.30(97B) Favorable experience dividend under Iowa Code section 97B.49F(2)

CHAPTER 22
FEDERAL SOCIAL SECURITY

22.1 Reserved
22.2(97C) Records to be kept by the employer
22.3(97C) Contents of records
22.4(97C) Reports
22.5(97C) Definition of wages for employment during the calendar quarter
22.6(97C) Identification of workers covered by federal social security law
22.7(97C) Contributions by employers
22.8(97C) Accrual of interest

CHAPTER 23
EMPLOYEE ORGANIZATION DUES

23.1(20) General provisions
23.2(20) Membership qualifications for payroll deductions
23.3(20) Prior approval
23.4(20) Annual certification
23.5(20) Limitations
23.6(20) Conditions to be met for payroll deduction
23.7(20) Letter of authorization
23.8(20) State held harmless

CHAPTER 24
PEACE OFFICERS' RETIREMENT, ACCIDENT AND DISABILITY SYSTEM

24.1(19A) Meetings of board of trustees
24.2(19A) Election of system member
24.3(19A) Forms and information
24.4(19A) Computation of average final compensation
24.5(19A) Age of qualification
24.6(19A) Spouse's benefit upon remarriage
24.7(19A) Date of retirement
24.8(19A) Workers' compensation—effect on benefit payment
24.9(19A) Errors in payments
24.10(19A) Annual statement of account
24.11(19A) Accrued vacation—effect on benefit payment
24.12(19A) Initial benefit for a child
24.13(19A) Recomputation under Iowa Code section 97A.6(14)

*j.* *Wages for certain testing purposes.* Wages for testing purposes to ensure compliance with Internal Revenue Code Section 415 shall include a member's gross wages, excluding nontaxable fringe benefits and all amounts placed in tax-deferred vehicles including, but not limited to, plans established pursuant to Internal Revenue Code Sections 125, 401(k), 403, and 457, and excluding IPERS contributions paid after December 31, 1994, by employers on behalf of employees. Effective January 1, 1996, the annual wages of a member taken into account for testing purposes under any of the applicable sections of Internal Revenue Code shall not exceed the applicable amount set forth in Internal Revenue Code Section 401(a)(17), and any regulations promulgated pursuant to that section. The foregoing sentence shall not be deemed to permit the maximum amount of wages of a member taken into account for any other purpose under Iowa Code chapter 97B to exceed the maximum covered wage ceiling under Iowa Code section 97B.1A(25). Effective January 1, 1998, wages for testing purposes to ensure compliance with Internal Revenue Code Section 415 shall include elective deferrals placed in tax-deferred plans established pursuant to Internal Revenue Code Sections 125, 401(k), 403, and 457 by employers on behalf of employees.

**21.4(2)** Wages are reportable in the quarter in which they are actually paid to the employee, except in cases where employees are awarded lump sum payments of back wages, whether as a result of litigation or otherwise, in which case the employer shall file wage adjustment reporting forms with IPERS allocating said wages to the periods of service for which such payments are awarded. Employers shall forward the required employer and employee contributions and interest to IPERS.

Wages received by employees who have the right to accelerate or defer the receipt of wages (e.g., by shifting from a 12-month to a 10-month wage payment schedule, or vice versa) must be reported in the quarter the wages otherwise would normally have been received, if such rights are offered primarily for purposes of increasing a member's three-year average covered wage (e.g., by offering the right to shift from a 12-month to a 10-month wage payment schedule only to employees who are retiring or terminating employment).

An employer cannot report wages as having been paid to employees as of a quarterly reporting date if the employee has not actually or constructively received the payments in question. For example, wages that are mailed, transmitted via electronic funds transfer for direct deposit, or handed to an employee on June 30 would be reported as second quarter wages, but wages that are mailed, transmitted via electronic funds transfer for direct deposit, or handed to an employee on July 3 would be reported as third quarter wages.

IPERS contributions must be calculated on the gross amount of a back pay settlement before the settlement is reduced for taxes, interim wages, unemployment compensation, and similar mitigation of damages adjustments. IPERS contributions must be calculated by reducing the gross amount of a back pay settlement by any amounts not considered covered wages such as, but not limited to, lump sum payments for medical expenses.

Notwithstanding the foregoing, a back pay settlement that does not require the reinstatement of a terminated employee and payment of the amount of wages that would have been paid during the period of severance (before adjustments) shall be treated by IPERS as a "special lump sum payment" under subrule 21.4(1) above and shall not be covered.

**21.4(3)** One quarter of service will be credited for each quarter in which a member is paid covered wages.

*a.* "Covered wages" means wages of a member during periods of service that do not exceed the annual covered wage maximum. Effective January 1, 1997, and for each subsequent calendar year, covered wages shall not exceed $160,000 or the amount permitted for that year under Section 401(a)(17) of the Internal Revenue Code.

*b.* Effective January 1, 1988, covered wages shall include wages paid a member regardless of age. (From July 1, 1978, until January 1, 1988, covered wages did not include wages paid a member on or after the first day of the month in which the member reached the age of 70.)

*c.* If a member is employed by more than one employer during the calendar year, the total amount of wages paid shall be included in determining the annual covered wage maximum. If the amount of wages paid to a member by several employers during a calendar year exceeds the covered wage limit, the amount of the excess shall not be subject to contributions required by Iowa Code section 97B.11. See subrule 21.8(1), paragraph *"h."*

This rule is intended to implement Iowa Code section 97B.1A(25).

**581—21.5(97B) Identification of employees covered by the IPERS retirement law.**

**21.5(1)** Definition of employee.

*a.* A person is in employment as defined by Iowa Code chapter 97B if the person and the covered employer enter into a relationship which both recognize to be that of employer/employee. A person is not in employment if the person volunteers services to a covered employer for which the person receives no remuneration. An employee is an individual who is subject to control by the agency for whom the individual performs services for wages. The term control refers only to employment and includes control over the way the employee works, where the employee works and the hours the employee works. The control need not be actually exercised for an employer/employee relationship to exist; the right to exercise control is sufficient. A public official may be an "employee" as defined in the agreement between the state of Iowa and the Secretary of Health, Education and Welfare, without the element of direction and control.

Effective July 1, 1994, a person who is employed in a position which allows IPERS coverage to be elected as specified in Iowa Code section 97B.1A(8) must file a one-time election form with IPERS for coverage. If the person was employed before July 1, 1994, the election must be postmarked on or before July 1, 1995. If the person was employed on or after July 1, 1994, the election must be postmarked within 60 days from the date the person was employed. Coverage will be prospective from the date the election is approved by IPERS. The election, once filed, is irrevocable and membership continues until the member terminates covered employment. The election window does not allow members who had been in coverage to elect out.

Effective July 1, 1994, members employed before that date as a gaming enforcement officer, a fire prevention inspector peace officer, or an employee of the division of capitol police (except clerical workers), may elect coverage under Iowa Code chapter 97A in lieu of IPERS. The election must be directed to the board of trustees established in Iowa Code section 97A.5 and postmarked on or before July 1, 1995. Coverage under IPERS will terminate when the board of trustees approves the election. The election, once received by the board of trustees, is irrevocable. If no election is filed by that date, the member will remain covered by IPERS until termination of covered employment. The election window does not allow a member who previously elected out of IPERS to reverse the decision and become covered under IPERS.

Effective January 1, 1999, new hires who may elect out of IPERS coverage shall be covered on the date of hire and shall have 60 days to elect out of coverage in writing using IPERS' forms. Notwithstanding the foregoing, employees who had the right to elect IPERS coverage prior to January 1, 1999, but did not do so, shall be covered as of January 1, 1999, and shall have until December 31, 1999, to elect out of coverage.

Employment as defined in Iowa Code chapter 97B is not synonymous with IPERS membership. Some classes of employees are excluded under Iowa Code section 97B.1A(8)*"b"* from membership by their nature. The following subparagraphs are designed to clarify the status of certain employee positions.

(1) Effective January 1, 1979, members of the Iowa general assembly may elect coverage under IPERS. Effective July 1, 1990, elected officials in positions for which the compensation is on a fee basis, elected officials of school districts, elected officials of townships, and elected officials of other political subdivisions who are in part-time positions are not covered by IPERS unless the elected official makes application to IPERS under this chapter. An elected official who makes application to IPERS to be covered under this chapter may later terminate membership by informing IPERS in writing of the expiration of the member's term of office, or if a member of the general assembly, of the intention to terminate coverage. An elected official does not terminate covered employment with the end of each term of office if the official has been reelected for the same position. If elected for another position, the official must elect coverage if desired.

**581—21.6(97B) Wage reporting and payment of contributions by employers.**

**21.6(1)** Any public employing unit whose combined employer/employee IPERS contribution tax equals or exceeds $100 per month is required to pay the tax on a monthly basis. All other employing units are required to file wage reports and pay the contribution tax on a quarterly basis. When IPERS becomes aware of the correct payment and reporting status of an employing unit, IPERS will send to the reporting official a supply of the employer remittance advice forms.

**21.6(2)** Each periodic wage reporting form must include all employees who earned reportable wages or wage equivalents under IPERS. If an employee has no reportable wage in a quarter but is still employed by the employing unit, the employee should be listed with zero wages. If the total amount of employer and employee contributions is $1 or less, wages shall be reported as zero for that member in that quarter.

**21.6(3)** All checks in payment of the total contribution tax shall be made payable to the Iowa Public Employees' Retirement System and mailed with the employer remittance advice to IPERS, P.O. Box 9117, Des Moines, Iowa 50306-9117.

**21.6(4)** For employers filing quarterly employer remittance advice forms, contributions must be received by IPERS on or before the fifteenth day of the month following the close of the calendar quarter in which the wages were paid.

For employers filing monthly employer remittance advice forms, contributions must be received by IPERS on or before the fifteenth day of the month following the close of the month in which wages were paid.

Any employer filing monthly or quarterly employer remittance advice forms for two or more entities shall attach to each remittance form the checks covering the contributions due on that form. The combining of contributions due for payment from two or more entities into one check or multiple checks will not be accepted. Improperly paid contributions are considered as unpaid. Upon the request of the employer, IPERS may grant a waiver of the requirement which prohibits the combining of contributions. A single entity which has several accounts will be required to report all wages under one main account effective January 1, 1995.

**21.6(5)** A request for an extension of time to pay a contribution may be granted by IPERS for good cause if presented before the due date, but no extension shall exceed 30 days after the end of the calendar quarter. If an employer who has been granted an extension fails to pay the contribution on or before the end of the extension period, interest shall be charged and paid from the original due date as if no extension had been granted.

To establish good cause for an extension of time to pay, the employer must show that the failure to pay was not due to mere negligence, lack of ordinary care or attention, carelessness or inattention. The employer must affirmatively show that it did not pay timely because of some occurrence beyond the control of the employer.

**21.6(6)** When an employer has no reportable wages or no wages to report during the applicable reporting period, the periodic wage reporting document should be marked "no reportable wages" or "no wages" and returned to IPERS. When no employer's wage report is made, the employing unit's account is considered delinquent for the reporting period until the report is filed.

**21.6(7)** Substitute forms may be used if they meet all the IPERS reporting requirements and the employing unit receives advance approval from IPERS.

**21.6(8)** Magnetic tape reporting may be used by an employer after submitting a written request to IPERS. When the request is received, IPERS will send the employer a copy of the specifications for this type of reporting.

**21.6(9)** Contribution rates. The following contribution rate schedule, payable on the covered wage of the member, is determined by the position or classification and the occupation class code of the member.

*a.* All covered members, except those identified in 21.6(9)*"b"* and *"c."*

(1) Member's rate—3.7%.

(2) Employer's rate—5.75%.

*b.* Sheriffs, deputy sheriffs, and airport firefighters, effective July 1, 1999.

(1) Member's rate—5.69%.

(2) Employer's rate—8.54%.

*c.* Members employed in a protection occupation, effective July 1, 1999.

(1) Member's rate—5.58%.

(2) Employer's rate—8.38%.

*d.* Members employed in a "protection occupation" shall include:

(1) Conservation peace officers.

(2) Effective July 1, 1994, a marshal in a city not covered under Iowa Code chapter 400, or a firefighter or police officer of a city not participating under Iowa Code chapter 410 or 411. (See definitions of employee in subrule 21.5(1).)

Effective January 1, 1995, part-time police officers will be included.

(3) Correctional officers as provided for in Iowa Code section 97B.49B.

Employees who, prior to December 22, 1989, were in a "correctional officer" position but whose position is found to no longer meet this definition on or after that date, shall retain coverage, but only for as long as the employee is in that position or another "correctional officer" position that meets this definition. Movement to a position that does not meet this definition shall cancel "protection occupation" coverage.

(4) Airport firefighters employed by the military division of the department of public defense. Effective July 1, 1994, airport firefighters employed by the military division of the department of public defense shall pay the same contribution rate, and receive benefits under the same formula, as sheriffs and deputy sheriffs. Service under this subrule includes all membership service in IPERS as an airport firefighter.

(5) Airport safety officers employed under Iowa Code chapter 400 by an airport commission in a city of 100,000 population or more.

(6) Rescinded IAB 7/5/95, effective 8/9/95.

(7) Effective July 1, 1990, an employee of the state department of transportation who is designated as a "peace officer" by resolution under Iowa Code section 321.477.

(8) Effective July 1, 1992, a fire prevention inspector peace officer employed by the department of public safety. Effective July 1, 1994, a fire prevention inspector peace officer employed before that date who does not elect coverage under Iowa Code chapter 97A in lieu of IPERS.

(9) Effective July 1, 1994, through June 30, 1998, a parole officer III with a judicial district of the department of correctional services.

(10) Effective July 1, 1994, through June 30, 1998, a probation officer III with a judicial district of the department of correctional services.

*e.* Prior special rates are as follows:

Effective July 1, 1998, through June 30, 1999:

1. Sheriffs, deputy sheriffs, and airport firefighters—member's rate—6.34%; employer's rate—9.51%.

2. Protection occupation—member's rate—5.61%; employer's rate—8.41%.

*f.* Pretax.

(1) Effective January 1, 1995, employers must pay member contributions on a pretax basis for federal income tax purposes only. Such contributions are considered employer contributions for federal income tax purposes and employee contributions for all other purposes. Employers must reduce the member's salary reportable for federal income tax purposes by the amount of the member's contribution.

(2) Salaries reportable for purposes other than federal income tax will not be reduced, including IPERS, FICA, and, through December 31, 1998, state income tax purposes.

(3) Effective January 1, 1999, employers must pay member contributions on a pretax basis as provided in subparagraph (1) above for both federal and state income tax purposes.

**21.6(10)** Effective July 1, 1992, credit memos that have been issued due to an employer's overpayment are void one year after issuance.

This rule is intended to implement Iowa Code sections 97B.49A to 97B.49I.

**581—21.7(97B) Accrual of interest.** Interest as provided under Iowa Code section 97B.9 shall accrue on any contributions not received by IPERS by the due date, except that interest may be waived by IPERS upon request prior to the due date by the employing unit, if due to circumstances beyond the control of the employing unit.

This rule is intended to implement Iowa Code section 97B.9.

**581—21.8(97B) Refunds and returns of erroneously paid contributions.**

**21.8(1)** *Refund formula.* A member is eligible for a refund of the employee accumulated contributions 30 days after the member's last paycheck is issued from which IPERS contributions will be deducted. Effective July 1, 1999, a vested member's refund shall also include a portion of the employer accumulated contributions. Refund amounts are determined as follows:

*a. Employee accumulated contributions.* Upon receiving an eligible member's application for refund, IPERS shall pay to the terminated member the amount of the employee accumulated contributions currently reported to, and processed by, IPERS as of the date of the refund. Upon reconciliation of the final employee contributions for that member, a supplemental refund of the employee accumulated contributions will be paid.

*b. Employer accumulated contributions.* Effective July 1, 1999, IPERS shall also pay to vested members, in addition to the employee accumulated contributions, a refund of a portion of the employer accumulated contributions. The refundable portion shall be calculated by multiplying the employer accumulated contributions by the "service factor." The "service factor" is a fraction, the numerator of which is the member's quarters of service and the denominator of which is the "applicable quarters." The "applicable quarters" shall be 120 for regular members, 100 for protection occupation members, and 88 for sheriffs, deputy sheriffs and airport firefighters. All quarters of service credit shall be included in the numerator of the service factor. In no event will a member ever receive an amount in excess of 100 percent of the employer accumulated contributions for that member.

In addition to the foregoing provisions, IPERS shall calculate the refundable portion of the employer accumulated contributions as follows:

(1) Upon reconciliation of the final employer contributions for that member, the member's portion of the employer accumulated contributions will be recalculated. IPERS will add the additional quarter(s) of service to the numerator of the service factor. The adjusted service factor will be multiplied by the sum of the original employer accumulated contributions plus the supplemental employer accumulated contributions. The employer accumulated contributions included in the original refund will then be subtracted from that recalculated figure to determine the amount of employer accumulated contributions to be included in the supplemental refund.

(2) The member's portion of employer accumulated contributions shall be determined under subrule 21.8(2) below if the member had a combination of regular service and special service, or a combination of different types of special service.

(3) In making calculations under this subrule and subrule 21.8(2) below, IPERS shall round to not less than six decimal places to the right of the decimal point.

**21.8(2)** *Refunds for members eligible for a hybrid refund.* Effective July 1, 1999, the calculation of the member's portion of employer accumulated contributions for a "hybrid refund" shall be as follows:

*a.* A "hybrid refund" is a refund that is calculated for a member who has a combination of regular service and special service quarters, or a combination of different types of special service quarters.

*b.* If a member is eligible for a hybrid refund, the member's portion of employer accumulated contributions shall be calculated by multiplying the total employer accumulated contributions by: (1) the member's regular service factor, if any; and (2) the protection occupation service factor, if any; and (3) the sheriff/deputy sheriff/airport firefighter service factor, if any (except as otherwise provided in this subrule). The amounts obtained will be added together to determine the amount of the employer accumulated contributions payable. In no event will a member ever receive an amount in excess of 100 percent of the employer accumulated contributions for that member.

*c.* Upon reconciliation of the final contributions from a member's employer, the member's portion of the employer accumulated contributions under this subrule will be recalculated. IPERS will add the additional quarter(s) of service to the numerator of the applicable service factor. The adjusted service factor will be multiplied by the sum of the original employer accumulated contributions plus the supplemental employer accumulated contributions. The employer accumulated contributions included in the original refund will then be subtracted from that recalculated figure to determine the amount of the employer accumulated contributions to be included in the supplemental refund.

*d.* If wages reported for a quarter are a combination of regular and special service wages, or different types of special service wages, IPERS will classify the service credit for each quarter based on the largest dollar amount reported for that quarter. A member shall not receive more than one quarter of service credit for any calendar quarter, even though more than one type of service credit is recorded for that quarter.

*e.* If a member is last employed in a sheriff, deputy sheriff, or airport firefighter position, all quarters of "eligible service," as defined in Iowa Code section 97B.49C(1)"d," shall be counted as quarters of sheriff/deputy sheriff/airport firefighter service credit.

*f.* A special limitation applies to hybrid refunds where the member and employer contributed at regular rates for quarters that are eligible for coverage under Iowa Code section 97B.49B or Iowa Code section 97B.49C. If a member has regular service credit and special service credit, and any part of the special service credit consists of quarters for which only regular contributions were made, such quarters will be counted as regular service quarters. However, the foregoing limitation will not apply if the member only has service credit eligible for coverage under Iowa Code section 97B.49B, or only has service credit eligible for coverage under Iowa Code section 97B.49C.

*g.* Except as described above, this subrule shall not be construed to require or permit service eligible for coverage under Iowa Code section 97B.49B to be treated as special service under Iowa Code section 97B.49C, or vice versa, when determining the percentage payable under this subrule.

**21.8(3)** *Refund of retired reemployed member's contributions.*

*a.* *Less than six months.* A retired member who returns to permanent covered employment, but who resigns within six months of the date the reemployment began, is eligible to have the member contributions for this period refunded. The contributions made by the employer will be refunded to the employer.

*b.* *Six months or longer.* A retired member who returns to permanent employment and subsequently terminates the member's employment may elect to receive an increased monthly allowance, or a refund of the member's accumulated contributions and, effective July 1, 1998, employer's accumulated contributions accrued during the period of reemployment. A reemployed member who elects a refund under this subrule in lieu of an increased monthly allowance shall forfeit all other rights to benefits under the system with respect to the period of reemployment. If IPERS determines that the reemployment will not increase the amount of a member's monthly benefit, a member shall only elect the refund.

**21.8(4)** *General administrative provisions.* In addition to the foregoing, IPERS shall administer a member's request for a refund as follows:

*a.* To obtain a refund, a member must file a refund application form, which is available from IPERS or the member's employer.

*b.* The last pay date must be certified by the employer on the refund application unless the member has not been paid covered wages for at least one year. The employee's "termination date" is the last date on which the employee was paid and certified by the employer on the IPERS refund application. The applicant's signature must be notarized. Terminated employees must keep IPERS advised in writing of any change in address so that refunds and tax documents may be delivered.

*c.* Unless otherwise specified by the member, the refund warrant will be mailed to the member at the address listed on the application for refund. If a member so desires, the warrant may be delivered to the member or the member's agent at IPERS' principal office. The member must show verification of identification by presenting a picture identification containing both name and social security number. If a member designates in writing an agent to pick up the refund warrant, the agent must present to IPERS both the written designation and the described picture identification.

*d.* No payment of any kind shall be made under this rule if the amount due is less than $1.

**21.8(5)** *Emergency refunds.*

*a.* IPERS may issue an emergency refund to a member who has terminated covered employment and meets the refund eligibility requirements of Iowa Code section 97B.53, if:

(1) The member files an application for refund on a form provided by IPERS;

(2) The member alleges in writing that the member is encountering a financial hardship or unforeseeable emergency; and

(3) The member provides IPERS with payment instructions either in person or in writing.

*b.* Financial hardship or unforeseeable emergency includes:

(1) Severe financial hardship to a member resulting from a sudden and unexpected illness or accident of the member or a member's dependent;

(2) Loss of a member's property due to casualty; or

(3) Other similar extraordinary and unforeseeable circumstances which arise as a result of events beyond a member's control.

**21.8(6)** *Erroneously reported wages for employees not covered under IPERS.* Employers who erroneously report wages for employees that are not covered under IPERS may secure a warrant or credit, as elected by the employer, for the employer's contributions by filing an IPERS periodic wage reporting adjustments form available from IPERS. An employer that files a periodic wage reporting adjustments form requesting a warrant or credit shall receive a warrant or credit for both the employer and employee contributions made in error. The employer is responsible for returning the employee's share and for filing corrected federal and state wage reporting forms. Warrants will not be issued by IPERS if the amount due is less than $1. In such cases, the credit will be transferred to the employer's credit memo. Under no circumstance shall the employer adjust these wages by underreporting wages on a future periodic wage reporting document. Wages shall never be reported as a negative amount. An employer that completes the employer portion of an employee's request for a refund on IPERS refund application form will not be permitted to file a periodic wage reporting adjustments form for that employee for the same period of time.

**21.8(7)** *Contributions paid on wages in excess of the annual covered wage maximum.* Effective for wages paid in calendar years beginning on or after January 1, 1995, IPERS shall automatically issue to each affected employer a warrant or credit, as elected by the employer, of both employer and employee contributions paid on wages in excess of the annual covered wage maximum for a calendar year. A report will be forwarded to each such employer detailing each employee for whom wages were reported in excess of the covered wage ceiling. Warrants or credits for the excess contributions made will be issued to the employers upon IPERS' receipt of certification from said employers that the overpayment report is accurate. Warrants will not be issued if the amount due is less than $1. In such cases, the credit will be transferred to the employer's credit memo. The employer is responsible for returning the employee's share of excess contributions. Where employees have simultaneous employment with two or more employers and as a result contributions are made on wages in excess of the annual covered wage maximum, warrants or credits for the excess employer and employee contributions shall be issued to each employer in proportion to the amount of contributions paid by the employer.

**21.8(8)** *Termination within less than six months of the date of employment.* If an employee hired for permanent employment resigns within six months of the date of employment, the employer may file IPERS' form for reporting adjustments to receive a warrant or the credit, as elected by the employer, for both the employer's and employee's portion of the contributions. It is the responsibility of the employer to return the employee's share. "Termination within less than six months of the date of employment" means employment is terminated prior to the day before the employee's six-month anniversary date. For example, an employee hired on February 10 whose last day is August 8 would be treated as having resigned within less than six months. An employee hired on February 10 whose last day is August 9 (the day before the six-month anniversary date, August 10) would be treated as having worked six months and would be eligible for a refund.

This rule is intended to implement Iowa Code sections 97B.10, 97B.46 and 97B.53.

201.4(147,148B) Examination requirements
201.5(147) Application for permanent licensure
201.6(148B) Limited permit
201.7(147) License renewal
201.8(147) Reinstatement of lapsed license
201.9(272C) Exemptions for inactive practitioners
201.10(272C) Disability or illness
201.11(147) Reinstatement of exempted, inactive practitioners
201.12(147) License fees
201.13(272C) Supervision
201.14(272C) Continuing education requirements
201.15(272C) Standards for approval
201.16(272C) Reporting continuing education credits
201.17(272C) Hearings
201.18 to 201.23 Reserved
201.24(272C) Grounds for discipline

CHAPTER 202
PHYSICAL THERAPIST ASSISTANTS

202.1(147) Definitions
202.2(147) General
202.3(147) Licensure by examination
202.4(147) Licensure by interstate endorsement
202.5 Reserved
202.6(147) License renewal
202.7(147) Exemptions for inactive practitioners
202.8(147) Reinstatement of exempted, inactive practitioners
202.9(147) Reinstatement of lapsed license
202.10(147) License fees
202.11(272C) Continuing education requirements
202.12(272C) Standards for approval
202.13(272C) Reporting continuing education credits
202.14(272C) Hearings
202.15(272C) Disability or illness
202.16 to 202.22 Reserved
202.23(272C) Grounds for discipline
202.24(272C) Supervision requirements

CHAPTERS 203 to 219
Reserved

*PODIATRY*

CHAPTER 220
PODIATRY EXAMINERS

220.1(147,149) Examination and licensure requirements
220.2 Reserved
220.3(147) Fees
220.4(147,149) Temporary license
220.5(514F) Utilization and cost control review
220.6(139C) Preventing HIV and HBV transmission
220.7(272C) License renewal
220.8(272C) Reinstatement of lapsed license
220.9 to 220.99 Reserved

PODIATRIST CONTINUING EDUCATION AND DISCIPLINARY PROCEDURES

220.100(272C) Definitions
220.101(272C) Continuing education requirements
220.102(272C) Standards for approval
220.103(272C) Approval of sponsors, programs and activities
220.104(272C) Hearings
220.105 Reserved
220.106(272C) Attendance record report
220.107(272C) Disability or illness
220.108(272C) Exemptions for inactive practitioners
220.109(272C) Reinstatement of inactive practitioners
220.110 to 220.199 Reserved
220.200(272C) Definitions
220.201(272C) Complaint
220.202(272C) Report of malpractice claims or actions
220.203(272C) Investigation of complaints or malpractice claims
220.204(17A,272C) Alternative procedure and settlement
220.205(272C) License and temporary license denial
220.206(272C) Notice of hearing
220.207(272C) Hearings open to the public
220.208(272C) Hearings
220.209(272C) Appeal
220.210(272C) Transcript
220.211(272C) Publication of decisions
220.212(272C) Discipline
220.213(272C) Peer review committees
220.214 to 220.299 Reserved

PROCEDURES FOR USE OF CAMERAS AND RECORDING DEVICES AT OPEN MEETINGS

220.300(21) Conduct of persons attending meetings

CHAPTER 221
MINIMUM TRAINING STANDARDS FOR PODIATRY ASSISTANTS ENGAGING IN PODIATRIC RADIOGRAPHY

221.1(136C,147,149) Definitions
221.2(136C,147,149) General
221.3(136C,147,149) Training requirements
221.4(136C,147,149) Approval of programs
221.5(136C,147,149) Exemptions
221.6(136C,147,149) Examination and proficiency evaluation
221.7(136C,147,149) Application for student status
221.8(136C,147,149) Application for board certification
221.9(136C,147,149) Renewal requirements
221.10(136C) Certificate in podiatric radiography—fees
221.11(136C,147,149) Responsibilities of certificate holder
221.12(136C,147,149) Enforcement

CHAPTERS 222 to 224
Reserved

**581—21.9(97B) Appeals.**

**21.9(1)** *Procedures.*

*a.* A party who wishes to appeal a decision by IPERS other than a special service classification shall, within 30 days after notification was mailed to the party's last-known address, file with IPERS a notice of appeal in writing setting forth:

(1) The name, address, and social security number of the applicant;

(2) A reference to the decision from which the appeal is being made;

(3) The fact that an appeal from the decision is being made; and

(4) The grounds upon which the appeal is based.

Upon receipt of the appeal, IPERS shall conduct an internal review of the facts and circumstances involved, in accordance with its appeal review procedure. IPERS shall issue a final agency decision which becomes final unless within 30 days of issuance the member files a notice of further appeal. Upon receipt of notification of further appeal, IPERS shall inform the department of inspections and appeals of the filing of the appeal and of relevant information pertaining to the case in question. In determining the date that an appeal or any other document is filed with IPERS or the department of inspections and appeals, the following shall apply: An appeal or any other document delivered by mail shall be deemed to be filed on the postmark date; an appeal or any other document delivered by any other means shall be deemed to be filed on the date of receipt. The department of inspections and appeals shall hold a hearing on the case and shall affirm, modify, or reverse the decision by IPERS.

*b.* Members shall file appeals of their special service classifications with their respective employers, using the appeal procedures of such employers. The appeal procedures for department of corrections employees shall be specified in rules adopted by the personnel division of the Iowa department of personnel. IPERS shall have no jurisdiction over special service classification appeals.

**21.9(2)** *The determination of appeals.* Following the conclusion of a hearing of an appeal, the administrative law judge within the department of inspections and appeals shall announce the findings of fact. The decision shall be in writing, signed by the administrative law judge, and filed with IPERS, with a copy mailed to the appellant. Such decision shall be deemed final unless, within 30 days after the issuance date of such decision, further appeal is initiated. The issuance date is the date that the decision is signed by the administrative law judge.

**21.9(3)** *Appeal board.* A party appealing from a decision of an administrative law judge shall file a notice with the employment appeal board of the Iowa department of inspections and appeals, petitioning the appeal board for review of the administrative law judge's decision. In determining the date that a notice of appeal or any other document is filed with the employment appeal board, and subject to applicable exceptions adopted by the employment appeal board in IAC [486], the following shall apply: an appeal or any other document delivered by mail shall be deemed to be filed as of the postmark date; an appeal or any other document delivered by any other means shall be deemed to be filed as of the date that it is received.

**21.9(4)** *Judicial review.* The appeal board's decision shall be final and without further review 30 days after the decision is mailed to all interested parties of record unless within 20 days a petition for rehearing is filed with the appeal board or within 30 days a petition for judicial review is filed in the appropriate district court. The department, in its discretion, may also petition the district court for judicial review of questions of law involving any of its decisions. Action brought by the department for judicial review of its decisions shall be brought in the district court of Polk County, Iowa.

**21.9(5)** *Contested case procedure.* Appeals of decisions by IPERS that are heard by the department of inspections and appeals shall be conducted pursuant to the rules governing contested case hearings adopted by the department of inspections and appeals under 481—Chapter 10.

This rule is intended to implement Iowa Code sections 97B.16, 97B.20, 97B.20A, 97B.20B, 97B.27 and 97B.29.

**581—21.10(97B) Beneficiaries.**

**21.10(1)** Designation of beneficiaries. To designate a beneficiary, the member must complete an IPERS designation of beneficiary form, which must be filed with IPERS. The designation of a beneficiary by a retiring member on the application for monthly benefits is accepted by IPERS in lieu of a completed designation form. IPERS may consider as valid a designation of beneficiary form filed with the member's employer prior to the death of the member, even if that form was not forwarded to IPERS prior to the member's death. If a retired member is reemployed in covered employment, the most recently filed beneficiary form shall govern the payment of all death benefits for all periods of employment. Notwithstanding the foregoing sentence, a reemployed IPERS Option 4 retiree may name someone other than the member's contingent annuitant as beneficiary, but only for death benefits accrued during the period of reemployment and only if the contingent annuitant has died or has been divorced from the member. If a reemployed IPERS Option 4 retiree dies without filing a new beneficiary form, the death benefits accrued for the period of reemployment shall be paid to the member's contingent annuitant, unless the contingent annuitant has died or been divorced from the member. If the contingent annuitant has been divorced from the member, any portion of the death benefits awarded in a qualified domestic relations order (QDRO) shall be paid to the contingent annuitant as alternate payee, and the remainder of the death benefits shall be paid to the member's estate, or the member's heirs if no estate is probated.

**21.10(2)** Change of beneficiary. The beneficiary may be changed by the member by filing a new designation of beneficiary form with IPERS. The latest dated designation of beneficiary form on file shall determine the identity of the beneficiary. Payment of a refund to a terminated member cancels the designation of beneficiary on file with IPERS.

**21.10(3)** Payments to a beneficiary. Before death benefit payments can be made, application in writing must be submitted to IPERS with a copy of the member's death certificate, together with information establishing the claimant's right to payment. A named beneficiary must complete IPERS' application for death benefits based on the deceased member's account.

**21.10(4)** Where the designated beneficiary is an estate, trust, church, charity or other like organization, payment of benefits shall be made in a lump sum only.

**21.10(5)** Rescinded IAB 7/5/95, effective 8/9/95.

**581—21.16(97B) Approved leave periods.**

**21.16(1)** Effective July 1, 1998, a member's service is not deemed interrupted while a member is on a leave of absence that qualifies for protection under the Family and Medical Leave Act of 1993 (FMLA), or would qualify but for the fact that the type of employment precludes coverage under the FMLA, or during the time a member is engaged during military service for which the member is entitled to receive credit under the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA) (38 U.S.C. Sections 4301 to 4333).

**21.16(2)** Reentry into public employment by an employee on military leave can be achieved if the individual accepts employment with a covered employer. Reemployment may begin anytime within 12 months of the individual's discharge from military service or, if longer, within the period provided under USERRA. Upon reemployment the member shall receive credit for all service to which the member is entitled pursuant to USERRA.

Notwithstanding any provision of Iowa Code chapter 97B or these rules to the contrary, contributions, benefits and service credit with respect to qualified military service will be provided in accordance with Internal Revenue Code Section 414(u).

For reemployments initiated on or after December 12, 1994, a member shall be treated as receiving compensation for each month during the member's period of military service equal to the member's average monthly compensation during the 12-month period immediately preceding the period of military service or, if shorter, the member's average monthly compensation for the period immediately preceding the period of military service. The member's deemed compensation during the period of military service shall be taken into consideration in determining a member's make-up contributions, if any, and the member's high three-year average covered wage.

For reemployments initiated on or after December 12, 1994, make-up contributions shall be permitted with respect to employee contributions that would have been made during the period of military service if the member had actually been in covered employment during the period earning the deemed compensation provided for under this subrule. Make-up contributions shall be permitted during the five-year period that begins on the date of reemployment or, if less, a period equal to three times the period of military service.

The member shall request the foregoing make-up contributions (except contributions for periods prior to January 1, 1995, which shall be made as posttax contributions) on forms to be filed with the employer, which shall forward a copy to the system. Make-up contributions shall be made as pretax contributions under Internal Revenue Code Section 414(h)(2). Employers must comply with a member's request to begin make-up contributions during a period not exceeding that described in the preceding paragraph and shall forward said amounts to the system in the same manner as provided for pick-up contributions under Iowa Code section 97B.11A. An election to make up employee contributions under this rule shall be irrevocable.

**21.16(3)** Effective for leaves of absence beginning on or after July 1, 1998, an eligible member must make contributions to the system in order to receive service credit for the period of the leave (except for leaves under subrule 21.16(1) above). Contributions may be made in increments of one quarter or more.

**21.16(4)** Reentry into public employment by an employee on a leave of absence under subrule 21.16(1) can be achieved by the employee by accepting employment with any public employer, provided that any interruption between the end of the period of leave of absence and reentry into public employment meets the requirements of the FMLA, USERRA and this rule.

**21.16(5)** Credit for a leave of absence shall not be granted and cannot be purchased for any time period which begins after or extends beyond an employee's termination of employment as certified by the employer. This includes a certification of termination of employment made by an employer on a refund application. Employers shall be required to certify all leaves of absence for which credit is being requested using an affidavit furnished by IPERS and accompanied by a copy of the official record(s) which authorized the leave of absence. The provisions of this subrule denying credit for leaves of absence in certain situations shall apply to leaves of absence that begin on or after the effective date of this subrule, which shall be November 27, 1996. The provisions of the subrule requiring employers to certify all leaves of absence using an affidavit furnished by IPERS shall apply to all requests for leave of absence credit filed after November 27, 1996, regardless of when the leave of absence was granted.

**21.16(6)** For a leave of absence beginning on or after July 1, 1998, and purchased before July 1, 1999, the service purchase cost shall be equal to the employer and employee contributions and interest payable for the employee's most recent year of covered wages, adjusted by the inflation factor used in rule 21.24(97B). For a leave of absence beginning on or after July 1, 1998, and purchased on or after July 1, 1999, the service purchase cost shall be the actuarial cost, as certified by IPERS' actuary. In calculating the actuarial cost of a service purchase under this subrule, the actuary shall apply the same actuarial assumptions and cost methods used in preparing IPERS' annual actuarial valuation, except that the retirement assumption shall be changed to 100 percent at the member's earliest unreduced retirement age. The actuarial cost of a service purchase shall be the difference between (1) the actuarial accrued liability for the member using the foregoing assumptions and current service credits, and (2) the actuarial accrued liability for the member using the foregoing assumptions, current service credits, and all quarters of service credit available for purchase.

This rule is intended to implement Iowa Code sections 97B.1A(8), 97B.1A(8A), 97B.1A(19) and 97B.81.

**581—21.17(97B) Membership status.**

**21.17(1)** Effective July 1, 1990, a member achieves vested status when the member has served and made contributions in 16 or more quarters of IPERS-covered employment or attains the age of 55. The vested status of a member may also be determined when the member's contribution payments cease. At that time a comparison of the membership date and termination date will be made. If service sufficient to indicate vested status is present, after any periods of interruption in service have been taken into consideration, the member shall be considered a vested member. All vested members receive all the rights and benefits of a vested member in IPERS until or unless the member files for a refund of accumulated contributions.

**21.17(2)** For the purposes of this rule, four quarters of coverage shall constitute a year of membership service for a member employed on a fiscal- or calendar-year basis. A member working for a school district or other institution which operates on a nine-month basis shall be granted a year of membership service for each year in which the member has three or more quarters of coverage, if the employee remains in covered employment for the next operating year. An employee who terminates covered employment and has no wages paid in the third quarter shall not receive service credit for the third quarter. Only one year of membership service credit shall be granted for any 12-month period.

*e.* The total amount paid will be added to the member's contributions and the years of service this amount represents will be added to the member's IPERS years of service. Effective January 1, 1993, the purchase will not affect the member's three-year average covered wage.

*f.* Effective July 1, 1999, an eligible member must pay the actuarial cost of a buy-in, as certified by IPERS' actuary. In calculating the actuarial cost of a buy-in, the actuary shall apply the same actuarial assumptions and cost methods used in preparing IPERS' annual actuarial valuation, except that the retirement assumption shall be changed to 100 percent at the member's earliest unreduced retirement age. The actuarial cost of a service purchase shall be the difference between (1) the actuarial accrued liability for the member using the foregoing assumptions and current service credits, and (2) the actuarial accrued liability for the member using the foregoing assumptions, current service credits, and all quarters of service credit available for purchase.

**21.24(3)** *IPERS buy-back.* Effective July 1, 1996, only vested or retired members may buy back previously refunded IPERS credit. For the period beginning July 1, 1996, and ending June 30, 1999, an eligible member is required to make membership contributions equal to the accumulated contributions received by the member for the period of service being purchased plus accumulated interest and interest dividends. Effective July 1, 1999, an eligible member must pay the actuarial cost of a buy-back, as certified by IPERS' actuary. In calculating the actuarial cost, the actuary shall apply the same actuarial assumptions and cost methods used in preparing IPERS' annual actuarial valuation, except that the retirement assumption shall be changed to 100 percent at the member's earliest unreduced retirement age. The actuarial cost of a service purchase shall be the difference between (1) the actuarial accrued liability for the member using the foregoing assumptions and current service credits, and (2) the actuarial accrued liability for the member using the foregoing assumptions, current service credits, and all quarters of service credit available for purchase.

Effective July 1, 1996, buy-backs may be made in increments of one or more calendar quarters. Prior to July 1, 1996, the member was required to repurchase the entire period of service and repay the total amount received plus accumulated interest and interest dividends.

A member who is vested solely by having attained the age of 55 must have at least one calendar quarter of wages on file with IPERS before completing a buy-back.

IPERS shall restore the wage records of a member who makes a buy-back and utilize those records in subsequent benefit calculations for that member.

**21.24(4)** *Prior service credit prior to January 1946.* A member who had service before January of 1946 but no service between January 1, 1946, and June 30, 1953, is eligible to receive credit for that service at no cost, subject to the member's providing verification of that service. If the member was employed after July 4, 1953, and took a refund of contributions, that member must first participate in the membership service buy-back (see subrule 21.24(3)) before receiving credit for service prior to 1946.

A member must submit proof of service in order to qualify.

**21.24(5)** *Veterans' credit.*

*a.* Effective July 1, 1992, a vested or retired member, in order to receive service credit under the IPERS system, may elect to make employer and employee contributions to IPERS for a period of active duty service in the armed forces of the United States, in increments of one or more calendar quarters, provided that the member:

(1) Produces verification of active duty service in the armed forces of the United States; and

(2) Is not receiving, or is not eligible to receive, retirement pay from the United States government for active duty service in the armed forces including full retirement disability compensation for this period of service. Disability payments received by the member as compensation for disability incurred while in service of the armed forces, which are not in lieu of military retirement compensation, will not disqualify a member from participating in this program.

A quarter of credit will be given when the date indicated on the DD214 shows service of at least 15 days in the quarter.

*b.* Prior to July 1, 1990, a person had to be an active member of IPERS as of July 1, 1988, and had to have covered wages during the 1987 calendar year in order to be eligible to apply. Partial buy-ins of allowable service time were not permitted until July 1, 1990.

*c.* For purchases prior to July 1, 1999, the member must pay IPERS the combined employee and employer contribution amount determined using the member's covered wages for the most recent full calendar year at the applicable rates in effect for that year under Iowa Code sections 97B.11, 97B.49B and 97B.49C for each year of the member's active duty service. A member must have at least four quarters of reported wages in any calendar year before a buy-in cost may be calculated.

*d.* If a vested or retired member does not have wages in the most recent calendar year, the cost of the buy-in will be calculated using the member's last calendar year of reported wages, adjusted by an inflation factor based on the Consumer Price Index as published by the United States Department of Labor. Between July 1, 1990, and July 1, 1992, members who did not have reported wages in the most recent calendar year were not permitted to purchase their otherwise eligible service time. Effective January 1 , 1993, the purchase will not affect the member's high three-year average wage.

*e.* Members eligible to complete the veterans' buy-in may buy the entire period of service or may buy credit in increments of one or more calendar quarters. If the entire period is not purchased, IPERS will calculate the proportionate cost of this period of service in accordance with this subrule. Fractional years of active service shall qualify a member for the equivalent quarters of credited IPERS covered service.

*f.* Effective July 1, 1999, an eligible member must pay the actuarial cost of a military service purchase, as certified by IPERS' actuary. In calculating the actuarial cost, the actuary shall apply the same actuarial assumptions and cost methods used in preparing IPERS' annual actuarial valuation, except that the retirement assumption shall be changed to 100 percent at the member's earliest unreduced retirement age. The actuarial cost of a service purchase shall be the difference between (1) the actuarial accrued liability for the member using the foregoing assumptions and current service credits, and (2) the actuarial accrued liability for the member using the foregoing assumptions, current service credits, and all quarters of service credit available for purchase.

**21.24(6)** *Legislative members.*

*a. Active members.* Persons who are members of the Seventy-first General Assembly or a succeeding general assembly during any period beginning July 4, 1953, may, upon proof of such membership in the general assembly, make contributions to the system for all or a portion of the period of such service in the general assembly. The contributions made by the member shall be determined in the same manner as provided in subrule 21.24(6)*"b."*

*b. Vested or retired former members of the general assembly.*

(1) A vested or retired member of the system who was a member of the general assembly prior to July 1, 1988, may make contributions to the system for all or a portion of the period of service in the general assembly.

(2) The contributions made by the member shall be equal to the accumulated contributions as defined in Iowa Code section 97B.41(2), which would have been made if the member of the general assembly had been a member of the system during the period of service in the general assembly being purchased.

(3) The member shall submit proof to IPERS of membership in the general assembly for the period claimed.

(4) Upon determining a member eligible and receiving the appropriate contributions from the member, IPERS shall credit the member with the period of membership service for which contributions are made.

*c.* *Incremental purchases.* Service purchased under this subrule must be purchased in increments of one or more calendar quarters.

*d.* *Actuarial cost.* Effective July 1, 1999, an eligible member must pay 40 percent and the Iowa legislature shall pay 60 percent of the actuarial cost of a legislative service purchase, as certified by IPERS' actuary. In calculating the actuarial cost, the actuary shall apply the same actuarial assumptions and cost methods used in preparing IPERS' annual actuarial valuation, except that the retirement assumption shall be changed to 100 percent at the member's earliest unreduced retirement age. The actuarial cost of a service purchase shall be the difference between (1) the actuarial accrued liability for the member using the foregoing assumptions and current service credits, and (2) the actuarial accrued liability for the member using the foregoing assumptions, current service credits, and all quarters of service credit available for purchase.

(2) Specify that the alternate payee shall be entitled to a fixed dollar amount or percentage of dividend payments, as follows:

1. If the court order awards a fixed dollar amount of benefits to the alternate payee, the dollar amount of dividend payments to be added or method for determining said dollar amount shall be stated in the court order or an award of a share of dividend payments shall be given no effect; and

2. If the court order awards a specified percentage of benefits to the alternate payee, IPERS shall add dividends to the alternate payee's share of the retirement allowance as necessary to keep the alternate payee's share of payments at the percentage specified in the court order;

(3) Bar a vested member from requesting a refund of the member's accumulated contributions without the alternate payee's written consent; and

(4) Name a successor alternate payee to receive the amounts that would have been payable to the member's spouse or former spouse under the order, if the alternate payee dies before the member. The designation of a successor alternate payee in an order shall be void and be given no effect if the order does not provide the successor's name, Social Security number, and last-known mailing address.

**21.29(3)** *Administrative provisions.*

*a.* Payment to an alternate payee shall be made in a like manner and at the same time that payment is made to the member. Payment to the alternate payee shall be in a lump sum if benefits are paid in a lump sum distribution or as monthly payments if a retirement option is in effect. A member shall not be able to receive an actuarial equivalent (AE) under Iowa Code section 97B.48(1) unless the total benefit payable with respect to that member meets the applicable requirements. All divisions of benefits shall be based on the gross amount of monthly or lump sum benefits payable. Federal and state income taxes shall be deducted from the member's and alternate payee's respective shares and reported under their respective federal tax identification numbers. Unrecovered basis shall be allocated on a pro rata basis to the member and alternate payee.

*b.* If a domestic relations order does not so provide, the alternate payee shall not be entitled to any portion of the death benefit payable with respect to a member, but the failure to award an alternate payee a share of the member's death benefits in a qualified domestic relations order shall not negate a proper beneficiary designation on file with IPERS.

*c.* If an alternate payee has been awarded a share of the member's benefits and dies before the member, the entire account value shall be restored to the member unless otherwise specified in the order and in the manner required under this rule.

*d.* An alternate payee shall not receive a share of dividends or other cost-of-living increases, unless so provided in a qualified domestic relations order.

*e.* The chief benefits officer, or a designee thereof, shall have exclusive authority to determine whether a domestic relations order is a qualified domestic relations order. A final determination by the chief benefits officer, or a designee thereof, may be appealed in the same manner as any other final agency determination under Iowa Code chapter 97B.

*f.* A person who attempts to make IPERS a party to a domestic relations action in order to determine an alternate payee's right to receive a portion of the benefits payable to a member shall be liable to IPERS for its costs and attorney's fees.

*g.* A domestic relations order shall not become effective until it is approved by IPERS. If a member is receiving a retirement allowance at the time a domestic relations order is received by the system, the order shall be effective only with respect to payments made after the order is determined to be a qualified domestic relations order. If the member is not receiving a retirement allowance at the time a domestic relations order is received by IPERS and the member applies for a refund or monthly allowance, or dies, no distributions shall be made until the respective rights of the parties under the domestic relations order are determined by IPERS.

*h.* IPERS and its staff shall have no liability for making or withholding payments in accordance with the provisions of this rule.

*i.* Alternate payees must notify IPERS of any change in mailing address. IPERS shall contact the alternate payee in writing at the last-known mailing address on file with IPERS, notifying the alternate payee that an application for a distribution has been received with respect to the member and providing the alternate payee with an application to be completed and returned by the alternate payee. The written notice shall provide that if the alternate payee does not return said application to IPERS within 60 days after such written materials are mailed by IPERS, the amounts otherwise payable to the alternate payee shall be paid to the member or the member's beneficiary(ies) until a valid application is received, and IPERS shall have no liability to the alternate payee with respect to such amounts. IPERS has no duty or responsibility to search for alternate payees. If distributions have already begun at the time that an order determined by IPERS to be a qualified domestic relations order, the qualified domestic relations order shall be deemed to be the alternate payee's application to begin receiving his or her payments under the QDRO.

*j.* If an alternate payee's application is received less than two weeks before the member's first or next monthly payment is to be made, payments to the alternate payee shall begin the next following month.

*k.* For both lump sum and monthly payments, the alternate payee's tax withholding and rollover (if eligible) elections must be received not less than two weeks in advance of the alternate payee's first payment, or IPERS will use the applicable default elections.

This rule is intended to implement Iowa Code sections 97B.4, 97B.15 and 97B.39.

**581—21.30(97B) Favorable experience dividend under Iowa Code section 97B.49F(2).**

**21.30(1)** *Allocation of favorable experience.* The department shall annually allocate the system's favorable actuarial experience, if any, between the reserve account created under Iowa Code section 97B.49F(2) and the remainder of the retirement fund according to the following schedule.

| Years to Amortize Unfunded Liability | Percentage to FED Reserve |
|---|---|
| Greater than 0 but less than or equal to 3 | 50% |
| Greater than 3 but less than or equal to 6 | 35% |
| Greater than 6 but less than or equal to 9 | 25% |
| Greater than 9 but less than or equal to 12 | 15% |
| Greater than 12 but less than or equal to 15 | 5% |
| Greater than 15 | 0% |

The portion of the favorable actuarial experience that is not allocated to the FED reserve as provided above will be retained and used by the system to pay down its unfunded actuarial accrued liability, except as otherwise required by Iowa Code section 97B.49F(2)*"c."*

**21.30(2)** *Determination of applicable percentage.* The department shall have sole discretion to determine the applicable percentages that will be used in calculating favorable experience dividends payable under this rule, if any, subject to the actuary's certification that the resulting favorable experience dividends meet the requirements of Iowa Code section 97B.49F(2) and this rule.

*a.* The department's annual applicable percentage target for calculating dividends under Iowa Code section 97B.49F(2) shall be equal to the applicable percentage used in calculating dividends payable to retirees under Iowa Code section 97B.49F(1). Notwithstanding the foregoing, the department may set a greater or lesser applicable percentage for calculating dividends under this rule depending on the funding adequacy of the reserve account. In no event shall the applicable percentage exceed 3 percent.

*b.* In determining the annual applicable percentage, the department shall consider, but not be limited to, the value of the reserve account, distributions made from the reserve account in previous years, and the likelihood of future credits to and distributions from the reserve account. The department shall make its annual applicable percentage decisions using at least a rolling five-year period.

*c.* If for any year the department cannot afford an applicable percentage equal to that payable to retirees under Iowa Code section 97B.49F(1), the department may use applicable percentages in succeeding years that are higher than those used in calculating dividends for retirees under Iowa Code section 97B.49F(1) (but not in excess of 3 percent).

*d.* An applicable percentage in excess of the applicable percentage declared under Iowa Code section 97B.49F(1) made for catch-up purposes shall not reduce the funding of the reserve account below the amount the system's actuary determines is necessary to pay the maximum favorable experience dividend for each of the next five years, based on reasonable actuarial assumptions.

**21.30(3)** *Calculation of FED for individual members and beneficiaries.* A member must be retired for one full year to qualify for a favorable experience dividend. In determining whether a member has been retired one full year, the department shall count the member's first month of entitlement as the first month of the one-year period. The month in which the favorable experience dividend is payable shall be included in determining whether a member meets the eligibility requirements.

An eligible member's favorable experience dividend shall be calculated by multiplying the total monthly benefit payments received in the prior calendar year by the number of complete years the member has been retired or would have been retired if living on the date the dividend is payable, and by the applicable percentage set by the department. The number of complete years the member has been retired shall be determined by rounding down to the nearest whole year.

**21.30(4)** *FED for eligible members and beneficiaries who die before the January distribution date.* If a member or beneficiary receiving monthly payments would have been eligible for a FED distribution in the following January but dies prior to the January distribution date, IPERS will pay a FED to the member's or beneficiary's account for the calendar year in which the death occurred. The FED shall be calculated using the monthly payments received in the calendar year the death occurred. A lump sum death benefit shall not constitute a monthly payment for purposes of determining FED eligibility or in making FED calculations.

The FED percentage applied to the monthly payments received in the calendar year of death shall be the most recently declared FED percentage in effect at the time of the FED payment to the member or beneficiary. This subrule shall not be construed to permit a FED distribution to a member where the total monthly benefits received by the member, counting the month of death, is less than 12, even if a period of 12 months has elapsed between the first payment of monthly benefits to the member and the January distribution date.

Notwithstanding the foregoing, if IPERS determines in January of a given year that, based on reasonable actuarial assumptions, there is a reasonable likelihood that a FED will not be declared for the next following January, IPERS may defer paying FED distributions under this subrule until the determination is made. If IPERS subsequently determines that no FED will be declared for a given year, no FED will be payable to persons whose death occurs during the applicable calendar year.

This rule is intended to implement Iowa Code section 97B.49F(2).

[Filed 10/28/75, Notice 9/22/75—published 11/17/75, effective 12/23/75]
[Filed 9/1/77, Notices 7/27/77, Amended Notice 8/10/77—published 9/21/77, effective 10/26/77]*
[Filed 3/15/78, Notice 2/8/78—published 4/5/78, effective 5/10/78]
[Filed 7/19/79, Notice 6/13/79—published 8/8/79, effective 9/12/79]
[Filed 11/19/80, Notice 9/3/80—published 12/10/80, effective 1/14/81]
[Filed 10/8/82, Notice 9/1/82—published 10/27/82, effective 12/2/82]
[Filed 8/9/83, Notice 3/30/83—published 8/31/83, effective 10/5/83]
[Filed 8/24/84, Notice 7/4/84—published 9/12/84, effective 10/17/84]
[Filed 1/11/85, Notice 9/26/84—published 1/30/85, effective 3/6/85]
[Filed 8/30/85, Notice 7/3/85—published 9/25/85, effective 10/30/85]
[Filed 4/17/87, Notice 3/11/87—published 5/6/87, effective 6/10/87]
[Filed 2/18/88, Notice 1/13/88—published 3/9/88, effective 4/13/88]
[Filed emergency 7/1/88—published 7/27/88, effective 7/1/88]
[Filed 9/2/88, Notice 7/27/88—published 9/21/88, effective 10/26/88]
[Filed 9/29/89, Notice 8/23/89—published 10/18/89, effective 12/22/89]
[Filed 2/1/90, Notice 12/13/89—published 2/21/90, effective 3/30/90]
[Filed emergency 6/27/90—published 7/25/90, effective 7/1/90]
[Filed 8/31/90, Notice 7/25/90—published 9/19/90, effective 10/24/90]
[Filed 2/14/91, Notice 1/9/91—published 3/6/91, effective 4/12/91]
[Filed emergency 7/1/91—published 7/24/91, effective 7/1/91]
[Filed emergency 7/2/92—published 7/22/92, effective 7/2/92]
[Filed 2/10/93, Notice 7/22/92—published 3/3/93, effective 4/7/93]
[Filed 10/22/93, Notice 9/15/93—published 11/10/93, effective 12/15/93]
[Filed emergency 3/16/95—published 4/12/95, effective 3/16/95]
[Filed 6/16/95, Notice 5/10/95—published 7/5/95, effective 8/9/95]
[Filed emergency 8/7/95 after Notice 6/21/95—published 8/30/95, effective 8/9/95]

*Effective date of subrule 8.5(1) delayed by the Administrative Rules Review Committee 70 days from 10/26/77.

[Filed emergency 5/3/96—published 5/22/96, effective 5/3/96]
[Filed emergency 7/26/96—published 8/14/96, effective 7/26/96]
[Filed emergency 11/27/96—published 12/18/96, effective 11/27/96]
[Filed 2/20/97, Notice 8/14/96—published 3/12/97, effective 4/16/97]
[Filed 2/20/97, Notice 12/18/96—published 3/12/97, effective 4/16/97]
[Filed emergency 8/4/97—published 8/27/97, effective 8/4/97]
[Filed 10/31/97, Notice 8/27/97—published 11/19/97, effective 12/24/97]
[Filed emergency 6/11/98—published 7/1/98, effective 6/11/98]
[Filed 9/17/98, Notice 7/1/98—published 10/7/98, effective 11/11/98]
[Filed emergency 11/25/98—published 12/16/98, effective 11/25/98]
[Filed 4/29/99, Notice 12/16/98—published 5/19/99, effective 6/23/99]
[Filed 5/14/99, Notice 3/10/99—published 6/2/99, effective 7/7/99]
[Filed emergency 6/11/99—published 6/30/99, effective 6/11/99]

CHAPTERS 112 to 120
Reserved

CHAPTER 121
STANDARD FOR IMPACT RESISTANCE AND METHOD OF TESTING
121.1(135) Standard for impact-resistant lenses
121.2(135) Method of testing lenses

CHAPTERS 122 to 125
Reserved

CHAPTER 126
STATE MEDICAL EXAMINER
126.1(691) Autopsies for sudden infant deaths—reimbursement
126.2(691) Medical examiner coverage
126.3(691) Fees for autopsies and related services and reimbursement for related expenses

CHAPTER 127
COUNTY MEDICAL EXAMINERS
127.1(331) Types of death under the jurisdiction of the county medical examiner
127.2(331) Death certificates
127.3(331) Cremation
127.4(331) Taking charge of body

CHAPTER 128
DOGS FOR SCIENTIFIC RESEARCH
128.1(145B) Application
128.2(145B) Investigation and authorization of applicant
128.3(145B) Expiration of authorization
128.4(145B) Minimum requirements for animal care
128.5(145B) Investigation of noncompliance

CHAPTER 129
Reserved

CHAPTER 130
EMERGENCY MEDICAL SERVICES TRAINING GRANTS
130.1(135) Definitions
130.2(135) Purpose
130.3(135) County EMS associations
130.4(135) County EMS training grants
130.5 Reserved
130.6(135) Disbursement of county funds
130.7 Reserved
130.8(135) Application denial or partial denial—appeal

CHAPTER 131
Reserved

CHAPTER 132
EMERGENCY MEDICAL SERVICES
132.1(147A) Definitions
132.2(147A) Authority of emergency medical care personnel
132.3(147A) Emergency medical care providers—requirements for enrollment in training programs
132.4(147A) Emergency medical care providers—certification, renewal standards and procedures, and fees
132.5(147A) Training programs—standards, application, inspection and approval
132.6(147A) Continuing education providers—approval, record keeping and inspection
132.7(147A) Service program—authorization and renewal procedures, inspections and transfer or assignment of certificates of authorization
132.8(147A) Service program—operational requirements, record keeping, equipment and supply standards
132.9(147A) Service program—off-line medical direction
132.10(147A) Complaints and investigations—denial, citation and warning, probation, suspension or revocation of service program authorization or renewal
132.11(147A) Complaints and investigations—denial, citation and warning, probation, suspension, or revocation of emergency medical care personnel certificates or renewal

132.12(147A) Complaints and investigations—denial, citation and warning, probation, suspension, or revocation of training program or continuing education provider approval or renewal
132.13(147A) Complaints, investigations and appeals
132.14(147A) Temporary variances
132.15(147A) Transport options for fully authorized paramedic service programs
132.16(147A) Public access defibrillation

CHAPTER 133
WHITE FLASHING LIGHT AUTHORIZATION
133.1(321) Definitions
133.2(321) Purpose
133.3(321) Application
133.4(321) Approval, denial, probation, suspension and revocation of authorization
133.5(321) Appeal of denial, probation, or revocation of authorization

CHAPTER 134
TRAUMA CARE FACILITY CATEGORIZATION AND VERIFICATION
134.1(147A) Definitions
134.2(147A) Trauma care facility categorization and verification
134.3(147A) Complaints and investigations and appeals—denial, citation and warning, probation, suspension, and revocation of verification as a trauma care facility

CHAPTER 135
TRAUMA TRIAGE AND TRANSFER PROTOCOLS
135.1(147A) Definitions
135.2(147A) Trauma triage and transfer protocols
135.3(147A) Offenses and penalties

CHAPTER 136
TRAUMA REGISTRY
136.1(147A) Definitions
136.2(147A) Trauma registry
136.3(147A) Offenses and penalties

CHAPTER 137
TRAUMA EDUCATION AND TRAINING
137.1(147A) Definitions
137.2(147A) Initial trauma education for Iowa's trauma system
137.3(147A) Continuing trauma education for Iowa's trauma system
137.4(147A) Offenses and penalties

CHAPTER 138
Reserved

CHAPTER 139
IOWA LAW ENFORCEMENT EMERGENCY CARE PROVIDER
139.1(147A) Definitions
139.2(147A) Authority of Iowa law enforcement emergency care provider
139.3(147A) Iowa law enforcement emergency care providers—requirements for enrollment in training programs
139.4(147A) Iowa law enforcement emergency care providers—certification, renewal standards and procedures, and fees
139.5(147A) Training programs
139.6(147A) Law enforcement AED service program authorization

CHAPTER 140
EMERGENCY MEDICAL SERVICES FUND GRANTS
140.1(135) Definitions
140.2(135) Purpose
140.3(135) County EMS associations
140.4(135) County EMS fund grants
140.5(135) Disbursement of funds
140.6(135) Application denial or partial denial—appeal

CHAPTERS 112 to 120
Reserved

# CHAPTER 121
# STANDARD FOR IMPACT RESISTANCE AND METHOD OF TESTING

[Prior to 7/29/87, Health Department[470] Ch 121]

**641—121.1(135) Standard for impact-resistant lenses.** In order for a lens to be considered impact resistant, the lens must not fracture when subjected to the test specified below. For the purpose of these rules, a lens will be considered to have fractured if it cracks through its entire thickness, including a laminar layer, if any, and across a complete diameter into two or more separate pieces or if any lens material visible to the naked eye becomes detached from the ocular surface.

**641—121.2(135) Method of testing lenses.** All lenses used in eyeglasses or sunglasses must be capable of withstanding an impact test in which a 5/8-inch steel ball weighing approximately 0.56 ounces is dropped from a height of 50 inches upon the horizontal upper surface of the lens. The ball shall strike within a 5/8-inch diameter circle located at the geometric center on the exterior surface of the lens. The ball may be guided, but not restricted, in its fall by being dropped through a tube extending to within approximately 4 inches of the lens. The test shall be conducted with the lens supported by a tube (1-inch inside diameter, 1¼-inch outside diameter, and approximately 1-inch high) affixed to a rigid iron or steel base plate. The total weight of the base plate and its rigidly attached fixtures shall not be less than 27 pounds. For lenses of small minimum diameter, a support tube having an outside diameter of less than 1¼ inches may be used. The support tube shall be made of rigid acrylic plastic, steel or other suitable substance and shall have securely bonded on the top edge a 1/8- by 1/8-inch neoprene gasket having a hardness of 40±5, as determined by ASTM Method D 1415; a minimum tensile strength of 1,200 pounds, as determined by ASTM Method D 412; and a minimum ultimate elongation of 400 percent, as determined by ASTM Method D 412. The diameter and the contour of the lens support may be modified as necessary so that the 1/8- by 1/8-inch neoprene gasket supports the lens at its periphery. Each finished impact-resistant glass lens for prescription use shall be subjected to the impact test prescribed by this rule.

These rules are intended to implement Iowa Code section 135.30.

[Filed June 14, 1972]

[Filed emergency 7/10/87—published 7/29/87, effective 7/10/87]

CHAPTERS 122 to 125
Reserved

# CHAPTER 126
# STATE MEDICAL EXAMINER

[Prior to 4/20/88, see Medical Examiner, State[566] Ch 1]
[Prior to 7/1/99, see Public Safety Department[661] Ch 21]

**641—126.1(691) Autopsies for sudden infant deaths—reimbursement.**

**126.1(1)** Autopsies performed on infants under two years of age when the circumstances surrounding the death indicate that sudden infant death syndrome may be the cause of death shall conform to Medical Examiner Forms number 4, 7 A and B.

**126.1(2)** Counties shall be reimbursed a maximum of $400 for each autopsy.

**126.1(3)** County auditors should submit a copy of the bill and Forms ME-7 A and B to:

Iowa SIDS Program
Iowa Department of Public Health
Lucas State Office Building
Des Moines, Iowa 50319

**126.1(4)** A bill must be submitted within 90 days after the autopsy is performed.

This rule is intended to implement Iowa Code section 331.802(3)*"j."*

**641—126.2(691) Medical examiner coverage.**

**126.2(1)** When an individual is required to report a death to a medical examiner and the county medical examiner, the state medical examiner or the state medical examiner's designated appointee cannot be located, the individual shall contact the county medical examiner from any adjacent Iowa county to investigate the circumstances of death and to prepare a written report in accordance with Iowa Code section 331.802. The responding medical examiner shall have full authority to conduct any procedures necessary to the investigation of the cause and manner of death.

**126.2(2)** The responding medical examiner shall be reimbursed by the county for which the service is provided for the investigation, mileage and expenses as is customary for the medical examiner's home county or at a rate agreed upon by the medical examiner and the board of supervisors of the county for which the service is provided.

This rule is intended to implement Iowa Code chapters 80 and 691.

**641—126.3(691) Fees for autopsies and related services and reimbursement for related expenses.** Autopsies performed by the state medical examiner division are provided on a fee-for-service basis. Costs of autopsies and related services and expenses are the responsibility of the county of residence of the deceased when requested by a public agency and of the person requesting the autopsy when the request is made by a private party. The estate of the deceased shall be responsible for payment of these fees and expenses when the request for an autopsy is made by the executor of the estate on behalf of the estate.

**126.3(1)** *Fee schedule.* The following fees shall apply to autopsies conducted by the state medical examiner division:

Autopsy ..... $1000
Copies of reports ..... $ 20

EXCEPTIONS: A copy of the autopsy report is included in the autopsy fee. A single copy of an autopsy report may be provided to a family member of the deceased without fee. Copies of autopsy reports may be provided to public officials for official purposes without fee.

**126.3(2)** *Expense reimbursement.* Other laboratory services associated with an autopsy, which shall include, but not be limited to, photography, toxicology, radiology, microbiology, and morgue fees, shall be billed by the department to the county of residence of the deceased or to the private individual requesting the autopsy at the cost to the department of the service. Moneys collected pursuant to this subrule shall be paid by the department to the laboratory or other entity providing the service.

**126.3(3)** *State medical examiner acting as county medical examiner.* When the state medical examiner acts in the capacity of county medical examiner, the fee for each individual deceased person for whom a county medical examiner report is prepared shall be $100, payable by the county in which the death occurred.

This rule is intended to implement Iowa Code section 691.6 as amended by 1999 Iowa Acts, House File 782.

[Filed 11/1/84, Notice 6/6/84—published 11/21/84, effective 12/26/84]
[Filed 4/1/88, Notice 9/23/87—published 4/20/88, effective 5/25/88]
[Filed emergency 12/23/88 after Notice of 11/2/88—published 1/11/89, effective 12/23/88]
[Filed emergency 8/29/96—published 9/25/96, effective 9/1/96]
[Filed emergency 6/9/99—published 6/30/99, effective 6/9/99]

63.12(157) Electrology requirements and sanitation
63.13(157) Violations

CHAPTER 64
COSMETOLOGY ARTS AND SCIENCES CONTINUING EDUCATION
64.1(272C) Continuing education requirements
64.2(272C) Report of licensee
64.3 Reserved
64.4(272C) Physical and mental disability or illness
64.5(272C) Exemptions for inactive licensees
64.6(272C) Standards for approval
64.7(272C) Approval of sponsors
64.8 Reserved

CHAPTER 65
DISCIPLINARY PROCEDURES FOR COSMETOLOGY ARTS AND SCIENCES LICENSEES
65.1 to 65.11 Reserved
65.12(272C) Discipline

CHAPTERS 66 to 79
Reserved

*DIETETIC EXAMINERS*

CHAPTER 80
BOARD OF DIETETIC EXAMINERS
80.1(152A) Definitions
80.2(152A) Availability of information
80.3(152A) Organization and proceedings
80.4(152A) Requirements for licensure
80.5(152A) Requirements for temporary licensure
80.6(152A) Application
80.7(152A) Examinations
80.8(152A) License renewal
80.9(152A) Fees
80.10 to 80.99 Reserved
80.100(152A) Continuing education requirements for licensees
80.101(152A) Approved continuing education activities
80.102(152A) Procedures for approval of continuing education activities
80.103(152A) Hearings
80.104(152A) Report of providers and retention of records
80.105(152A) Disability or illness
80.106(152A) Inactive licensure
80.107(152A) Reinstatement of inactive license
80.108(152A) Reinstatement of lapsed licenses
80.109 to 80.213 Reserved
80.214(152A,272C) Grounds for discipline
80.215 to 80.219 Reserved
80.220(152A,272C) Principles

CHAPTERS 81 to 99
Reserved

*MORTUARY SCIENCE*

CHAPTER 100
FUNERAL DIRECTORS

100.1(156) Definitions
100.2(156) Care and preparation of dead human remains and fetuses
100.3(142,156) Removal and transfer of dead human remains and fetuses
100.4(135,144) Burial transit permits
100.5(156) Prepreparation and embalming activities
100.6(156) Arranging and directing funeral and memorial ceremonies
100.7(142,156) Unclaimed dead human remains for scientific use
100.8(144) Disinterments
100.9(156) Funeral or cremation establishment license, or both
100.10(156) License renewal
100.11(156) Cremation of human remains and fetuses

CHAPTER 101
BOARD OF MORTUARY SCIENCE EXAMINERS

101.1(147,156) College educational requirements
101.2(147,156) Requirements for licensure
101.3(147,156) Internship and preceptorship
101.4(147,156) Endorsement rules
101.5(272C) Reinstatement of lapsed license
101.6(147,272C) Inactive practitioners
101.7 to 101.97 Reserved
101.98(147) Fees
101.99 Reserved

CONTINUING EDUCATION FOR FUNERAL DIRECTORS

101.100(147) Definitions
101.101(272C) Continuing education requirements
101.102(272C) Standards for approval
101.103(272C) Approval of sponsors, programs, and activities
101.104(272C) Hearings
101.105(272C) Report of licensee
101.106(272C) Attendance record report
101.107(272C) Disability or illness
101.108(272C) Exemptions for inactive practitioners
101.109(272C) Reinstatement of inactive practitioners
101.110 to 101.199 Reserved

DISCIPLINARY PROCEDURES FOR FUNERAL DIRECTORS

101.200(272C) Definitions
101.201 to 101.211 Reserved

101.212(272C) Grounds for discipline
101.213(272C) Method of discipline: licensed funeral establishments and licensed cremation establishments
101.214(272C) Disciplinary proceedings for funeral and cremation establishments
101.215(272C) Peer review committees
101.216 to 101.299 Reserved

PROCEDURES FOR USE OF CAMERAS AND RECORDING DEVICES AT OPEN MEETINGS
101.300(21) Conduct of persons attending meetings

CHAPTERS 102 to 119
Reserved

*HEARING AID DEALERS*

CHAPTER 120
BOARD OF EXAMINERS FOR THE LICENSING AND REGULATION OF HEARING AID DEALERS
120.1(154A) General information
120.2(154A) Rules for examinations
120.3(154A) Licensure by reciprocity
120.4(154A) Temporary permits
120.5(154A) Renewal of license
120.6(154A) Continuing education requirements
120.7(272C) Exemptions for inactive practitioners
120.8(272C) Reinstatement of exempted, inactive practitioners
120.9(272C) Reinstatement of lapsed license
120.10(154A) Display of license
120.11(154A) Establish procedures and instrumentation
120.12(154A) Filing and investigation of charges
120.13(154A) License fees
120.14(154A) Supervision of temporary permit holders
120.15 to 120.199 Reserved

DISCIPLINARY PROCEDURES FOR HEARING AID DEALERS
120.200 Reserved
120.201(272C) Complaint
120.202(272C) Report of malpractice claims or actions
120.203(272C) Investigation of complaints or malpractice claims

120.204(272C) Settlements
120.205(272C) License denial
120.206(272C) Notice of hearing
120.207(272C) Hearings open to the public
120.208(272C) Hearings
120.209(272C) Appeal
120.210(272C) Transcript
120.211(272C) Publication of decisions
120.212(272C) Suspension, revocation or probation
120.213(272C) Peer review committees
120.214 to 120.299 Reserved

PROCEDURES FOR USE OF CAMERAS AND RECORDING DEVICES AT OPEN MEETINGS
120.300(21) Conduct of persons attending meetings

CHAPTER 121
DECLARATORY RULINGS
(Uniform Rules)
121.1(17A) Petition for declaratory ruling
121.3(17A) Inquiries

CHAPTER 122
PETITIONS FOR RULE MAKING
(Uniform Rules)
122.1(17A) Petition for rule making
122.3(17A) Inquiries

CHAPTER 123
AGENCY PROCEDURE FOR RULE MAKING
(Uniform Rules)
123.3(17A) Public rule-making docket
123.4(17A) Notice of proposed rule making
123.5(17A) Public participation
123.6(17A) Regulatory flexibility analysis
123.10(17A) Exemptions from public rule-making procedures
123.11(17A) Concise statement of reasons
123.13(17A) Agency rule-making record

CHAPTER 124
CHILD SUPPORT NONCOMPLIANCE
124.1(252J) Definitions

CHAPTER 125
IMPAIRED PRACTITIONER REVIEW COMMITTEE
125.1(272C) Impaired practitioner review committee

CHAPTERS 126 to 128
Reserved

CHAPTER 129
PUBLIC RECORDS AND FAIR INFORMATION PRACTICES
(Uniform Rules)
129.1(17A,22) Definitions

*MASSAGE THERAPISTS*

CHAPTER 130
MASSAGE THERAPISTS
130.1(152C) Definitions
130.2 Reserved
130.3(152C) Examination and licensure requirements
130.4(152C) Reciprocal license
130.5(152C) Requirements for approval of massage therapy education curriculum
130.6(152C) License renewal
130.7(152C) Inactive practitioners
130.8(152C) Reinstatement of inactive practitioners
130.9(152C) Reinstatement of lapsed licenses
130.10(152C) License fees

CHAPTER 131
CONTINUING EDUCATION AND DISCIPLINARY PROCEDURES
131.1(152C) Continuing education requirements
131.2(152C) Standards for approval
131.3(152C) Reporting continuing education credits
131.4(152C) Hearings
131.5(152C) Disability or illness
131.6(152C) Complaint
131.7(152C) Report of malpractice claims or actions or disciplinary actions
131.8(152C) Investigation of complaints or malpractice claims
131.9(152C) Alternative procedure and settlement
131.10(152C) License denial
131.11(152C) Notice of hearing
131.12(152C) Hearings open to public
131.13(152C) Hearings
131.14(152C) Appeal
131.15(152C) Transcript
131.16(152C) Publications of decisions
131.17(152C) Discipline

131.18(152C) Civil penalty for employment of person not licensed
131.19(152C) Civil penalty for use of title

CHAPTERS 132 to 135
Reserved

CHAPTER 136
PETITIONS FOR RULE MAKING
(Uniform Rules)
136.1(17A) Petition for rule making
136.3(17A) Inquiries

CHAPTER 137
DECLARATORY RULINGS
(Uniform Rules)
137.1(17A) Petition for declaratory ruling
137.3(17A) Inquiries

CHAPTER 138
AGENCY PROCEDURE FOR RULE MAKING
(Uniform Rules)
138.3(17A) Public rule-making docket
138.4(17A) Notice of proposed rule making
138.5(17A) Public participation
138.6(17A) Regulatory flexibility analysis
138.10(17A) Exemptions from public rule-making procedures
138.11(17A) Concise statement of reasons
138.13(17A) Agency rule-making record

CHAPTER 139
PUBLIC RECORDS AND FAIR INFORMATION PRACTICES
(Uniform Rules)
139.1(22) Adoption by reference

*NURSING HOME ADMINISTRATORS*

CHAPTER 140
ADMINISTRATIVE AND REGULATORY AUTHORITY
140.1(155) Definitions
140.2(155) Severability
140.3(155) Description and organization of the board
140.4(155) Availability of forms

CHAPTER 141
LICENSURE OF NURSING HOME ADMINISTRATORS
141.1(155) Requirement for licensure
141.2(155) Minimum qualifications for licensure as a nursing home administrator prior to January 1, 1999
141.3(155) Minimum qualifications for licensure as a nursing home administrator beginning January 1, 1999
141.4(155) Practicum/internship
141.5(155) Application for licensure as a nursing home administrator
141.6(155) Examination
141.7(155) Provisional license
141.8(155) License cycle
141.9(155) Inactive license status
141.10(155) Reinstatement
141.11(155) Penalties and license fees
141.12(147,155,272C) Grounds for discipline

CHAPTER 142
NURSING HOME ADMINISTRATION EDUCATION PROGRAMS
142.1(155) Accreditation
142.2(155) Application
142.3(155) Approval

CHAPTER 143
CONTINUING EDUCATION
143.1(272C) Definitions
143.2(272C) Continuing education requirements
143.3(272C) Standards for approval
143.4(272C) Approval of programs and activities
143.5(272C) Exceptions to continuing education requirements

CHAPTERS 144 to 179
Reserved

*OPTOMETRY EXAMINERS*

CHAPTER 180
BOARD OF OPTOMETRY EXAMINERS

180.1(154) General definitions
180.2(154) Availability of information
180.3(154) Organization of the board and procedures
180.4 Reserved
180.5(154) Requirements for licensure
180.6(154) Licensure by endorsement
180.7(154) Diagnostic pharmaceutical agents
180.8(154) Notice of address
180.9(154) Furnishing prescriptions
180.10(147) Board of optometry examiners
180.11 Reserved
STUDY COMPLIANCE FOR LICENSE RENEWAL AND REINSTATEMENT AND DISCIPLINARY PROCEDURES
180.12(154) General
180.13(154) Local study groups
180.14 Reserved
180.15(154,272C) Continuing education exemptions for inactive practitioners
180.16(154,272C) Continuing education exemption for physical disability or illness
180.17(154,272C) Reinstatement of inactive practitioners
180.18(154,272C) Continuing education exemption for active practitioners
180.19 to 180.114 Reserved
180.115(272C) Grounds for discipline
180.116 to 180.199 Reserved
180.200(155A) Prescription drug orders

CHAPTERS 181 to 199
Reserved

*PHYSICAL AND OCCUPATIONAL THERAPY*

CHAPTER 200
PHYSICAL THERAPY EXAMINERS

200.1(147) Definitions
200.2(147) General
200.3(147) Licensure by examination
200.4(147) Licensure by interstate endorsement
200.5(147) License renewal
200.6(147) Exemptions for inactive practitioners
200.7(147) Reinstatement of exempted, inactive practitioners
200.8(147) Reinstatement of lapsed license
200.9(147) License fees
200.10(272C) Continuing education requirements
200.11(272C) Standards for approval
200.12(272C) Reporting continuing education credits
200.13 Reserved
200.14(272C) Hearings
200.15(272C) Disability or illness
200.16 to 200.22 Reserved
200.23(272C) Grounds for discipline
200.24(272C) Supervision requirements

CHAPTER 201
OCCUPATIONAL THERAPY EXAMINERS

201.1(148B) Definitions
201.2(147,148B) General
201.3(147,148B,272C) Education requirements

*SOCIAL WORKERS*

CHAPTER 280
BOARD OF SOCIAL WORK EXAMINERS

280.1(154C) Definitions
280.2(154C) Organization and proceedings
280.3(154C) Requirements for licensure
280.4(154C) Application
280.5(154C) Examinations
280.6(154C) License renewal
280.7(154C) Fees
280.8(154C) Supervision
280.9 to 280.99 Reserved

SOCIAL WORK CONTINUING EDUCATION

280.100(154C) Continuing education requirements
280.101(154C) Standards for approval of providers and approval of continuing education activities
280.102(154C) Procedures for approval of providers and continuing education activities
280.103(154C) Review of providers and program
280.104(154C) Hearings
280.105(154C) Reporting of continuing education
280.106(154C) Request for waiver or extension
280.107 to 280.199 Reserved

DISCIPLINARY PROCEDURES FOR SOCIAL WORKERS

280.200 to 280.211 Reserved
280.212(272C) Grounds for discipline
280.213(154C) Rules of conduct

CHAPTERS 281 to 299
Reserved

*SPEECH PATHOLOGY AND AUDIOLOGY*

CHAPTER 300
BOARD OF SPEECH PATHOLOGY AND AUDIOLOGY EXAMINERS

300.1(147) Definitions
300.2(147) General
300.3(147) Examination requirements
300.4(147) Licensure requirements
300.5(147) Licensure by interstate endorsement
300.6(147) License renewal
300.7(147) Licensure fees
300.8(272C) Exemptions for inactive practitioners
300.9(272C) Reinstatement of inactive practitioners
300.10(272C) Reinstatement of lapsed license
300.11(147) Organization of board of speech pathology and audiology examiners

CHAPTER 301
SPEECH PATHOLOGY AND AUDIOLOGY CONTINUING EDUCATION AND DISCIPLINARY PROCEDURES

301.1(272C) Definitions
301.2(272C) Continuing education requirements
301.3(272C) Standards for accreditation of sponsors and approval of continuing education activities
301.4(272C) Procedures for accreditation of sponsors and review of continuing education activities
301.5(272C) Reporting continuing education credits
301.6(272C) Disability or illness
301.7(272C) Hearings
301.8 to 301.99 Reserved
301.100(272C) Definitions
301.101 to 301.111 Reserved
301.112(272C) Grounds for discipline

CHAPTER 302
SPEECH PATHOLOGY AND AUDIOLOGY ASSISTANTS

302.1(147) Use of assistants
302.2(147) Definition
302.3(147) Minimum requirements
302.4(147) Utilization

302.5(147) Maximum number of assistants
302.6(147) Supervisor responsibilities
302.7(147) Noncompliance

CHAPTERS 303 to 324
Reserved

CHAPTER 325
PHYSICIAN ASSISTANTS
325.1(148C) General
325.2(148C) Definitions
325.3(148C) Registration
325.4(148C) Licensure
325.5(148C) Licensing and registration renewal
325.6(148C) Free medical clinic
325.7(148C) Duties
325.8(147) Prescription requirements
325.9(147) Supplying—requirements for containers, labeling, and records
325.10(148C) Board of physician assistant examiners
325.11(148C,272C) Grounds for discipline
325.12 to 325.14 Reserved
325.15(148C) Physician assistant trainee
325.16(148C) Application for program approval
325.17(148C) Essential requirements of an approved program
325.18(148C) Prohibition
325.19(148C) Continuing education

CHAPTERS 326 to 349
Reserved

CHAPTER 350
ATHLETIC TRAINING
350.1(152D) Definitions
350.2(147) Availability of information
350.3(147) Organization and proceedings of the board
350.4 and 350.5 Reserved
350.6(147,152D) Licensure requirements
350.7(152D) Application for licensure
350.8(152D) Documentation of physician supervision
350.9(152D) Athletic training service plans
350.10(147,152D) License renewal
350.11(147,152D) Fees
350.12(272C) License denial
350.13(272C) Continuing education
350.14(272C) Standards for approval of providers of continuing education activities
350.15(272C) Procedures for approval of providers of continuing education activities
350.16(272C) Reporting of licensee
350.17(272C) Disability or illness
350.18(272C) Hearings—continuing education

**645—80.102(152A) Procedures for approval of continuing education activities.**

**80.102(1)** *Prior approval of activities.* An organization or person which seeks prior approval of a course or program shall apply to the board for approval on a form provided by the board at least 60 days in advance of the commencement of the activity. The application shall state the dates, subjects offered, objectives for the activity, total hours of instruction, names and qualifications of speakers and other pertinent information. The board shall approve or deny such application within 90 days of receipt of the application. The provider shall submit an attendance list of Iowa-licensed persons attending within 30 days after the conclusion of the program to the board office.

**80.102(2)** Reserved.

**80.102(3)** *Review of programs.* The board may monitor and review any continuing education program already approved by the board. Upon evidence of significant variation in the program presented from the program approved, the board may disapprove all or any part of the approved hours granted the program.

**645—80.103(152A) Hearings.** In the event of denial, in whole or part, of any application for approval of continuing education program of credit for continuing education activity, the applicant or licensee shall have the right to request a hearing. The request must be sent within 20 days after receipt of the notification of denial. The hearing shall be held within 90 days after receipt of the request for hearing. The hearing shall be conducted by the board. The final decision shall be rendered by the board.

**645—80.104(152A) Report of providers and retention of records.** Each continuing education provider shall submit a list of Iowa-licensed dietitians and number of continuing education hours earned on a form provided by the board within 30 days after the program is completed. The licensee shall maintain a record of proof of attendance at each continuing education program for a period of at least four years from the date of completing the continuing education.

**645—80.105(152A) Disability or illness.** The board may, in individual cases involving disability or illness, grant waivers of the minimum education requirements or extensions of time within which to fulfill the same or make the required reports. A written request for waiver or extension of time shall be submitted by the licensee and shall be accompanied by a verifying document signed by a physician licensed by the board of medical examiners or a licensed psychologist. Waivers of the minimum educational requirements or extensions of time within which to fulfill the same may be granted by the board for any period of time not to exceed one calendar year. In the event that the disability or illness upon which a waiver or extension has been granted continues beyond the period of the waiver or extension, the licensee must reapply. The board may, as a condition of any waiver granted, require the applicant to make up a certain portion or all of the minimum educational requirements waived by such methods as may be prescribed by the board.

**645—80.106(152A) Inactive licensure.** A licensee who is not engaged in practice in the state of Iowa residing within or without the state of Iowa may be granted a waiver of compliance with continuing education requirements upon written application to the board. The application shall contain a statement that the applicant will not engage in the practice of dietetics in Iowa without first complying with all regulations governing reinstatement after being granted a waiver of compliance. The application for waiver of compliance shall be submitted upon a form provided by the board.

**645—80.107(152A) Reinstatement of inactive license.**

**80.107(1)** Inactive practitioners who have been granted a waiver of compliance, prior to engaging in the practice of dietetics in the state of Iowa, shall submit written application for reinstatement on a form provided by the board and pay the current renewal fee.

**80.107(2)** In addition to the application, the practitioner shall furnish evidence of one of the following:

*a.* The full-time practice of dietetics in another state of the United States or District of Columbia and completion of continuing education for each year of inactive status substantially equivalent in the opinion of the board to that required under these rules; or

*b.* Complete the total number of hours of accredited continuing education computed by multiplying 15 by the number of years a waiver of compliance shall have been in effect for the applicant up to a maximum of 60 hours; or

*c.* Successfully complete the licensing examination conducted within one year immediately prior to the submission of such application for reinstatement.

**645—80.108(152A) Reinstatement of lapsed licenses.**

**80.108(1)** A license shall be considered lapsed if not renewed within 30 days of renewal date. If the license lapses, the practice of holding oneself out as licensed to practice dietetics must cease until the license is reinstated by the board.

**80.108(2)** A licensee who wishes to reinstate a lapsed license shall pay past due renewal fees to a maximum of four years, a reinstatement fee and penalty fees.

**80.108(3)** Continuing education requirements for the period of time the license was lapsed are not waived, up to a maximum of 60 hours.

**80.108(4)** Application for reinstatement shall be made on a form provided by the board.

**645—80.109** to **80.199** Reserved.

**645—80.200(152A) Complaint.** Rescinded IAB 6/30/99, effective 8/4/99.

**645—80.201(152A) Report of malpractice claims or actions.** Rescinded IAB 6/30/99, effective 8/4/99.

**645—80.202(152A) Investigation of complaints or malpractice claims.** Rescinded IAB 6/30/99, effective 8/4/99.

**645—80.203(152A) Alternative procedures.** Rescinded IAB 6/30/99, effective 8/4/99.

**645—80.204(152A) License denial.** Rescinded IAB 6/30/99, effective 8/4/99.

**645—80.205(152A) Notice of hearing.** Rescinded IAB 6/30/99, effective 8/4/99.

**645—80.206(152A) Hearings open to the public.** Rescinded IAB 6/30/99, effective 8/4/99.

**645—80.207(152A) Hearings.** Rescinded IAB 6/30/99, effective 8/4/99.

**645—80.208(152A) Appeal.** Rescinded IAB 6/30/99, effective 8/4/99.

**645—80.209(152A) Transcript.** Rescinded IAB 6/30/99, effective 8/4/99.

**645—80.210(152A) Publication of decisions.** Rescinded IAB 6/30/99, effective 8/4/99.

**645—80.211(152A,272C) General.** Rescinded IAB 6/30/99, effective 8/4/99.

**645—80.212(152A,272C) Method of discipline.** Rescinded IAB 6/30/99, effective 8/4/99.

**645—80.213(152A,272C) Discretion of board.** Rescinded IAB 6/30/99, effective 8/4/99.

**645—80.214(152A,272C) Grounds for discipline.** The board may impose any of the disciplinary sanctions set forth in rule 80.212(152A,272C), including civil penalties in an amount not to exceed $1000, when the board determines that the licensee is guilty of any of the following acts or offenses:

**80.214(1)** Fraud in procuring a license. Fraud in procuring a license includes, but is not limited to, an intentional perversion of the truth in making application for a license to practice dietetics in this state, and includes false representations of a material fact, whether by word or by conduct, by false or misleading allegations, or by concealment of that which should have been disclosed when making application for a license in this state, or attempting to file or filing with the board or the Iowa department of public health any false or forged diploma, or certificate or affidavit or identification or qualification in making an application for a license in this state.

**80.214(2)** Professional incompetency. Professional incompetency includes, but is not limited to:

*a.* A substantial lack of knowledge or ability to discharge professional obligations within the scope of the dietitian's practice;

*b.* A substantial deviation by the dietitian from the standards of learning ordinarily possessed and applied by other dietitians in the state of Iowa acting in the same or similar circumstances;

*c.* A failure by a dietitian to exercise in a substantial respect that degree of care which is ordinarily exercised by the average dietitian in the state of Iowa acting in the same or similar circumstances; and

*d.* A willful or repeated departure from or the failure to conform to the minimal standard of acceptable and prevailing practice of dietetics in the state of Iowa.

**80.214(3)** Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of a profession or engaging in unethical conduct as provided by rule 80.212(152A,272C) or practice harmful or detrimental to the public. Proof of actual injury need not be established. Practice harmful or detrimental to the public includes, but is not limited to, the failure of a dietitian to possess and exercise that degree of learning and care expected of a reasonably prudent dietitian acting in the same or similar circumstances in this state.

**80.214(4)** Habitual intoxication or addiction to the use of drugs. The inability of a dietitian to practice with reasonable skill and safety by reason of the excessive use of alcohol, drugs, narcotics, chemicals or other type of material on a continuing basis, or the excessive use of alcohol, drugs, narcotics, chemicals or other type of material which may impair a dietitian's ability to practice the profession with reasonable skill and safety.

**80.214(5)** Conviction of a felony related to the profession or occupation of the licensee, or the conviction of any felony that would affect the licensee's ability to practice within a profession. A copy of the record of conviction or plea of guilty shall be conclusive evidence.

**80.214(6)** Use of untruthful or improbable statements in advertisements. Use of untruthful or improbable statements in advertisements includes, but is not limited to, an action by a dietitian in making information or intention known to the public which is false, deceptive, misleading or promoted through fraud or misrepresentation and includes statements which may consist of, but are not limited to:

*a.* Inflated or unjustified expectations of favorable results.

*b.* Self-laudatory claims that imply that the dietitian is a skilled dietitian engaged in a field or specialty of practice for which the dietitian is not qualified.

*c.* Extravagant claims or proclaiming extraordinary skills not recognized by the dietetic profession.

**80.214(7)** Willful or repeated violations of the provisions of these rules and Iowa Code chapter 147.

**80.214(8)** Violating a regulation or law of this state, or the United States, which relates to the practice of dietetics.

**80.214(9)** Failure to report a license revocation, suspension or other disciplinary action taken by a licensing authority of another state, district, territory or country within 30 days of the final action by such licensing authority. A stay by an appellate court shall not negate this requirement; however, if such disciplinary action is overturned or reversed by a court of last resort, such report shall be expunged from the records of the board.

**80.214(10)** Failure of a licensee or an applicant for licensure in this state to report any voluntary agreements to restrict the practice of dietetics entered into in another state, district, territory or country.

**80.214(11)** Knowingly aiding, assisting, procuring, or advising a person to unlawfully practice dietetics.

**80.214(12)** Failure to identify oneself as a dietitian to the public.

**80.214(13)** Violating a lawful order of the board, previously entered by the board in a disciplinary hearing or pursuant to informal settlement.

**80.214(14)** Being adjudged mentally incompetent by a court of competent jurisdiction.

**80.214(15)** Making suggestive, lewd, lascivious or improper remarks or advances to a patient or client.

**80.214(16)** Knowingly submitting a false report of continuing education or failure to submit the biennial report of continuing education.

**80.214(17)** Failure to comply with a subpoena issued by the board.

**80.214(18)** Failure to file the reports required by rule 645—80.217(152A,272C) concerning acts or omissions committed by another licensee.

**80.214(19)** Obtaining any fee by fraud or misrepresentation.

**80.214(20)** Failing to exercise due care in the delegation of dietetic services to or supervision of assistants, employees or other individuals, whether or not injury results.

**645—80.215(152A,272C) Reporting of judgments or settlements.** Rescinded IAB 6/30/99, effective 8/4/99.

**645—80.216(152A,272C) Investigation of reports of judgments and settlements.** Rescinded IAB 6/30/99, effective 8/4/99.

**645—80.217(152A,272C) Reporting of acts or omissions.** Rescinded IAB 6/30/99, effective 8/4/99.

**645—80.218(152A,272C) Failure to report licensee.** Rescinded IAB 6/30/99, effective 8/4/99.

**645—80.219(152A,272C) Immunities.** Rescinded IAB 6/30/99, effective 8/4/99.

**645—80.220(152A,272C) Principles.** The dietetic practitioner shall:

1. Provide professional services with objectivity and with respect for the unique needs and values of individuals.
2. Avoid discrimination against other individuals on the basis of race, creed, religion, sex, age, and national origin.
3. Fulfill professional commitments in good faith.
4. Conduct oneself with honesty, integrity, and fairness.
5. Remain free of conflict of interest while fulfilling the objectives and maintaining the integrity of the dietetic profession.
6. Maintain confidentiality of information.
7. Practice dietetics based on scientific principles and current information.
8. Assume responsibility and accountability for personal competence in practice.
9. Recognize and exercise professional judgment within the limits of the qualifications and seek counsel or make referrals as appropriate.
10. Provide sufficient information to enable clients to make their own informed decisions.
11. Inform the public and colleagues by using factual information and shall not advertise in a false or misleading manner.
12. Promote or endorse products in a manner that is neither false nor misleading.
13. Permit use of the practitioner's name for the purpose of certifying that dietetic services have been rendered only after having provided or supervised the provision of those services.
14. Accurately present professional qualifications and credentials.
15. Present substantiated information and interpret controversial information without personal bias, recognizing that legitimate differences of opinion exist.
16. Make all reasonable effort to avoid bias in any kind of professional evaluation and provide objective evaluation of candidates for professional association membership, awards, scholarships, or job advancements.

These rules are intended to implement Iowa Code chapters 152A and 272C and Iowa Code section 147.55.

[Filed emergency 4/4/86—published 4/23/86, effective 4/4/86]
[Filed 2/17/87, Notice 10/8/86—published 3/11/87, effective 4/15/87]
[Filed 4/29/88, Notice 3/23/88—published 5/18/88, effective 6/22/88]
[Filed 10/27/88, Notice 8/24/88—published 11/16/88, effective 12/21/88]
[Filed 9/29/89, Notice 7/26/89—published 10/18/89, effective 11/22/89]
[Filed 5/11/90, Notice 4/4/90—published 5/30/90, effective 7/4/90]
[Filed 10/11/91, Notice 8/21/91—published 10/30/91, effective 12/4/91]
[Filed 4/23/92, Notice 3/4/92—published 5/13/92, effective 6/17/92]
[Filed emergency 7/6/92—published 7/22/92, effective 7/6/92]
[Filed 4/7/95, Notice 1/4/95—published 4/26/95, effective 5/31/95]
[Filed 11/25/98, Notice 10/21/98—published 12/16/98, effective 1/20/99]
[Filed 6/11/99, Notice 4/7/99—published 6/30/99, effective 8/4/99]

## CHAPTERS 81 to 85
Reserved

## CHAPTER 86
## AGENCY PROCEDURE FOR RULE MAKING
Rescinded IAB 6/30/99, effective 8/4/99

## CHAPTER 87
## PETITIONS FOR RULE MAKING
Rescinded IAB 6/30/99, effective 8/4/99

## CHAPTER 88
## DECLARATORY RULINGS
Rescinded IAB 6/30/99, effective 8/4/99

## CHAPTER 89
## PUBLIC RECORDS AND FAIR INFORMATION PRACTICES
Rescinded IAB 6/30/99, effective 8/4/99

## CHAPTER 90
## CHILD SUPPORT NONCOMPLIANCE
Rescinded IAB 6/30/99, effective 8/4/99

## CHAPTER 91
## IMPAIRED PRACTITIONER REVIEW COMMITTEE
Rescinded IAB 6/30/99, effective 8/4/99

## CHAPTERS 92 to 99
Reserved

**645—101.107(272C) Disability or illness.** The board may, in individual cases involving disability or illness, grant waivers of the minimum education requirements or extensions of time within which to fulfill the same or make the required reports. No waiver or extension of time shall be granted unless written application is made on forms provided by the board and signed by the licensee and an appropriately licensed health care professional, and the waiver is acceptable to the board. Waivers of the minimum educational requirements may be granted by the board for any period of time not to exceed one calendar year. In the event that the disability or illness upon which a waiver has been granted continues beyond the period of the waiver, the licensee must reapply for an extension of the waiver. The board may, as a condition of any waiver granted, require the applicant to make up a certain portion or all of the minimum educational requirements waived by such methods as may be prescribed by the board.

**645—101.108(272C) Exemptions for inactive practitioners.** A licensee who is not engaged in practice in the state of Iowa residing within or without the state of Iowa may be granted a waiver of compliance and obtain a certificate of exemption upon written application to the board. The application shall contain a statement that the applicant will not engage in the practice of mortuary science in Iowa without first complying with all regulations governing reinstatement after exemption. The application for a certificate of exemption shall be submitted upon the form provided by the board.

**645—101.109(272C) Reinstatement of inactive practitioners.** Inactive practitioners who have been granted a waiver of compliance with these rules and obtained a certificate of exemption shall, prior to engaging in the practice of mortuary science in the state of Iowa, satisfy the following requirements for reinstatement:

**101.109(1)** Submit written application for reinstatement to the board upon forms provided by the board with the application fee for reinstatement of license and the examination fee, if applicable, as provided in rule 645—101.98(147); and

**101.109(2)** Furnish in the application evidence of one of the following:

*a.* The full-time practice of mortuary science in another state of the United States or the District of Columbia and completion of the continuing education for each year of inactive status substantially equivalent in the opinion of the board to that required under these rules; or

*b.* Successful completion of the national and state license examination conducted within one year immediately prior to the submission of the application for reinstatement; or

*c.* Completion of 24 hours of board-approved continuing education and successful completion of an examination administered by the board.

**645—101.110** to **101.199** Reserved.

DISCIPLINARY PROCEDURES FOR FUNERAL DIRECTORS

**645—101.200(272C) Definitions.** For the purpose of these rules, the following definitions shall apply:

*"Board"* means the board of mortuary science examiners.

*"Crematory"* means any person, partnership or corporation that performs cremation and sells funeral goods.

*"Funeral establishment"* means a place of business as defined by the board devoted to providing any aspect of mortuary science.

*"Funeral services"* means any services which may be used to care for and prepare deceased human bodies for burial, cremation or other final disposition; and arrange, supervise or conduct the funeral ceremony or the final disposition of deceased human bodies.

*"Licensee"* means any person licensed to practice as a funeral director in the state of Iowa.

**645—101.201(272C) Complaint.** Rescinded IAB 6/30/99, effective 8/4/99.

**645—101.202(272C) Report of malpractice claims or actions.** Rescinded IAB 6/30/99, effective 8/4/99.

**645—101.203(272C) Investigation of complaints or malpractice claims.** Rescinded IAB 6/30/99, effective 8/4/99.

**645—101.204(272C) Alternative procedure and settlement.** Rescinded IAB 6/30/99, effective 8/4/99.

**645—101.205(272C) License and intern registration denial.** Rescinded IAB 6/30/99, effective 8/4/99.

**645—101.206(272C) Notice of hearing.** Rescinded IAB 6/30/99, effective 8/4/99.

**645—101.207(272C) Hearings open to the public.** Rescinded IAB 6/30/99, effective 8/4/99.

**645—101.208(272C) Hearings.** Rescinded IAB 6/30/99, effective 8/4/99.

**645—101.209(272C) Appeal.** Rescinded IAB 6/30/99, effective 8/4/99.

**645—101.210** Rescinded, effective 7/1/79.

**645—101.211(272C) Publication of decisions.** Rescinded IAB 6/30/99, effective 8/4/99.

**645—101.212(272C) Grounds for discipline.**

**101.212(1)** The board may impose any of the disciplinary sanctions set forth in rule 645—13.1(272C), including civil penalties in an amount not to exceed $1000, when the board determines that the licensee is guilty of the following acts or offenses:

*a.* Fraud in procuring a license.

*b.* Professional incompetency.

*c.* Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of a profession or engaging in unethical conduct or practice harmful or detrimental to the public. Proof of actual injury need not be established.

*d.* Habitual intoxication or addiction to the use of drugs.

*e.* Conviction of a felony related to the profession or occupation of the licensee, or the conviction of any felony that would affect the licensee's ability to practice within a profession. A copy of the record of conviction or plea of guilty shall be conclusive evidence.

Conviction of a felony related to the profession or occupation of the licensee or the conviction of any felony that would affect the licensee's ability to practice within a profession includes, but is not limited to the conviction of a funeral director who has committed a public offense in the practice of the profession which is defined or classified as a felony in this state, another state, or the United States, which statute or law relates to the practice of mortuary science, or who has been convicted of a felonious act, which is so contrary to honesty, justice or good morals, and so reprehensible as to violate the public confidence and trust imposed upon the licensee as a funeral director in this state.

*f.* Fraud in representations as to skill or ability.

*g.* Use of untruthful or improbable statements in advertisements.

*h.* Willful or repeated violations of the provisions of Iowa Code chapter 147 or 156.

**101.212(2)** Violation of the rules promulgated by the board.

**101.212(3)** Personal disqualifications:

*a.* Mental or physical inability reasonably related to and adversely affecting the licensee's ability to practice in a safe and competent manner.

*b.* Involuntary commitment for treatment of mental illness, drug addiction or alcoholism.

**101.212(4)** Practicing the profession while the license is suspended.

**101.212(5)** Suspension or revocation of license by another state.

**101.212(6)** Negligence by the licensee in the practice of the profession, which is a failure to exercise due care including negligent delegation to or supervision of employees or other individuals, whether or not injury results; or any conduct, practice or conditions which impair the ability to safely and skillfully practice the profession.

PROCEDURES FOR USE OF CAMERAS AND
RECORDING DEVICES AT OPEN MEETINGS

**645—101.300(21) Conduct of persons attending meetings.**

**101.300(1)** The person presiding at a meeting of the board may exclude a person from an open meeting for behavior that obstructs the meeting.

**101.300(2)** Cameras and recording devices may be used at open meetings provided they do not obstruct the meeting. If the user of a camera or recording device obstructs the meeting by the use of such device, the person presiding may request the person to discontinue use of the camera or device. If the person persists in use of the device or camera, that person shall be ordered excluded from the meeting by order of the board member presiding at the meeting.

These rules are intended to implement Iowa Code section 21.7.

[Filed prior to 7/1/52]
[Filed 11/9/76, Notice 9/22/76—published 12/1/76, effective 1/5/77]
[Filed 4/7/77 Notice 2/9/77—published 5/4/77, effective 6/8/77]
[Filed 6/9/78, Notice 11/2/77—published 6/28/78, effective 8/2/78]
[Filed 9/29/78, Notice 8/9/78—published 10/18/78, effective 11/22/78]
[Filed 4/11/79, Notice 9/20/78—published 5/2/79, effective 7/1/79]
[Filed emergency 5/23/79—published 6/13/79, effective 7/1/79]
[Filed 4/24/80, Notice 1/9/80—published 5/14/80, effective 7/1/80]
[Filed 4/23/81, Notice 2/4/81—published 5/13/81, effective 6/17/81]
[Filed 12/3/81, Notice 6/10/81—published 12/23/81, effective 2/1/82]
[Filed 8/23/82, Notice 5/26/82—published 9/15/82, effective 10/21/82]
[Filed 10/22/82, Notice 9/15/82—published 11/10/82, effective 12/17/82]
[Filed 2/11/83, Notice 11/10/82—published 3/2/83, effective 4/7/83]
[Filed emergency after Notice 1/19/84, Notice 10/26/83—published 2/15/84, effective 1/19/84]
[Filed 7/13/84, Notice 5/23/84—published 8/1/84, effective 9/5/84]
[Filed 4/15/85, Notice 2/27/85—published 5/8/85, effective 6/12/85]
[Filed 1/10/86, Notice 7/17/85—published 1/29/86, effective 3/6/86]◊
[Filed 8/30/88, Notice 6/29/88—published 9/21/88, effective 10/26/88]
[Filed 12/8/89, Notice 10/4/89—published 12/27/89, effective 1/31/90]
[Filed 2/12/90, Notice 11/1/89—published 3/7/90, effective 4/11/90]
[Filed 7/6/90, Notice 3/21/90—published 7/25/90, effective 9/25/90]
[Filed 4/26/91, Notice 3/6/91—published 5/15/91, effective 6/19/91]
[Filed 6/21/91, Notice 5/15/91—published 7/10/91, effective 8/14/91]
[Filed 1/17/92, Notice 9/4/91—published 2/5/92, effective 3/11/92]
[Filed 4/24/92, Notice 3/4/92—published 5/13/92, effective 6/17/92]

◊Two ARCs

[Filed 8/27/93, Notice 5/26/93—published 9/15/93, effective 10/20/93]
[Filed 6/17/94, Notice 3/2/94—published 7/6/94, effective 8/10/94]
[Filed 1/27/95, Notice 10/26/94—published 2/15/95, effective 3/22/95*]
[Filed 5/18/95, Notice 2/15/95—published 6/7/95, effective 7/12/95]
[Filed 10/6/95, Notice 7/19/95—published 10/25/95, effective 11/29/95]
[Filed 1/19/96, Notice 10/25/95—published 2/14/96, effective 3/20/96]
[Filed 8/18/98, Notice 5/6/98—published 9/9/98, effective 10/14/98]
[Filed 4/21/99, Notice 1/13/99—published 5/19/99, effective 6/23/99]
[Filed 4/21/99, Notice 3/10/99—published 5/19/99, effective 6/23/99]
[Filed 6/11/99, Notice 4/7/99—published 6/30/99, effective 8/4/99]

*Effective date of 645—101.3(147,156), 101.98(3), 101.212(16) delayed 70 days by the Administrative Rules Review Committee at its meeting held March 13, 1995; delay lifted by this Committee May 9, 1995.

## CHAPTER 102
## DECLARATORY RULINGS
Rescinded IAB 6/30/99, effective 8/4/99

## CHAPTER 103
## PETITIONS FOR RULE MAKING
Rescinded IAB 6/30/99, effective 8/4/99

## CHAPTER 104
## AGENCY PROCEDURE FOR RULE MAKING
Rescinded IAB 6/30/99, effective 8/4/99

## CHAPTERS 105 to 108
Reserved

## CHAPTER 109
## PUBLIC RECORDS AND FAIR INFORMATION PRACTICES
Rescinded IAB 6/30/99, effective 8/4/99

## CHAPTERS 110 to 113
Reserved

## CHAPTER 114
## IMPAIRED PRACTITIONER REVIEW COMMITTEE
Rescinded IAB 6/30/99, effective 8/4/99

## CHAPTER 115
## CHILD SUPPORT NONCOMPLIANCE
Rescinded IAB 6/30/99, effective 8/4/99

## CHAPTERS 116 to 119
Reserved

**645—141.11(155) Penalties and license fees. All fees are nonrefundable.**

**141.11(1)** The basic application fee required from all applicants for licensure is $50.

**141.11(2)** The fee for the national examination determined by the NAB is to be paid by certified check or money order made payable to NAB (National Board of Examiners for Nursing Home Administrators) and mailed to the Iowa board office at the address in 141.5(1).

**141.11(3)** The fee for the state examination is $75.

**141.11(4)** The fee for a provisional letter is $120 for a maximum six-month period of time.

**141.11(5)** The fee for biennial renewal of a license is $90 payable on or before December 31 of each odd-numbered year.

**141.11(6)** The fee for a duplicate license to replace an original or for display in a second facility is $10.

**141.11(7)** The fee for a biennial renewal of a duplicate license for display in a second facility is $10, payable at the time of renewal for the original license.

**141.11(8)** The fee for a certified statement that a licensee is licensed in this state is $10.

**141.11(9)** The penalty fee for failure to obtain required continuing education credits within the compliance period is $30.

**141.11(10)** The penalty fee for failure to renew a license prior to its expiration is $75 in addition to the renewal fees.

**141.11(11)** The penalty fee for failure to renew a license after 30 days following the expiration is $150 in addition to renewal fees.

**141.11(12)** The fee for reinstatement of a license is based on $45 per year, or any portion thereof, from the date of reinstatement to the next December 31 of an odd-numbered year.

**141.11(13)** The application fee for an approved providership shall be $100.

**645—141.12(147,155,272C) Grounds for discipline.** The board may impose any of the disciplinary sanctions set forth in rule 645—13.1(272C), including civil penalties in an amount not to exceed $1000, when the board determines that a licensee is guilty of any of the following acts or offenses:

**141.12(1)** Obtaining or attempting to obtain a license by fraud or deceit.

**141.12(2)** Professional incompetence.

**141.12(3)** Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of nursing home administration or engaging in unethical conduct or practice harmful or detrimental to the public. Proof of actual injury need not be established.

**141.12(4)** Habitual intoxication or addiction to the use of drugs.

**141.12(5)** Conviction of a felony that is substantially related to the qualifications, functions or duties of a nursing home administrator and evidences unfitness to perform as a nursing home administrator in a manner consistent with protecting the public health, safety and welfare, in the courts of this state or any other state territory, country or of the United States. As used in this paragraph, the term "conviction of a felony" shall include a conviction of an offense which if committed in this state would be deemed a felony under either state or federal law, without regard to its designation elsewhere. A copy of the record of conviction or plea of guilty shall be conclusive as evidence.

**141.12(6)** Having a license to practice nursing home administration or another profession revoked, suspended or annulled by any lawful licensing authority; or had other disciplinary action taken against the license by any lawful licensing authority; or was denied a license or was refused the renewal of a license by any lawful licensing authority pursuant to disciplinary proceedings.

**141.12(7)** Willful or repeated violations of any statute, rule or regulation regarding a nursing home.

**141.12(8)** Knowingly aided, assisted, procured, or advised any person to practice nursing home administration contrary to this chapter or to the rules and regulations of the board; or knowingly performed any act which in any way aids, assists, procures, advises, or encourages any unlicensed person or entity to practice nursing home administration.

**141.12(9)** Failure to report to the board every adverse judgment in a professional or occupational malpractice action to which the licensee is a party, and every settlement of a claim against the licensee alleging malpractice.

**141.12(10)** Use of untrue or improbable statements in advertisements.

**141.12(11)** Failure to report to the board in writing a change of name or address within 60 days after the change occurs.

**645—141.13(155) Disciplinary procedure.** Rescinded IAB 6/30/99, effective 8/4/99.

These rules are intended to implement Iowa Code chapter 155.

[Filed 2/23/71]
[Filed 3/19/76, Notice 2/9/76—published 4/5/76, effective 5/10/76]
[Filed 11/18/76, Notice 9/22/76—published 12/15/76, effective 1/19/77]
[Filed 8/28/78, Notice 3/8/78—published 9/20/78, effective 10/25/78]
[Filed 12/8/78, Notice 9/20/78—published 12/27/78, effective 1/31/79]
[Filed 10/19/79, Notice 8/22/79—published 11/14/79, effective 12/21/79*]
[Filed emergency 12/18/79—published 1/9/80, effective 12/18/79]
[Filed 5/7/80, Notice 4/2/80—published 5/28/80, effective 7/7/80]
[Filed emergency 6/9/80—published 7/9/80, effective 7/7/80]
[Filed 3/13/81, Notice 12/24/80—published 4/1/81, effective 5/7/81]
[Filed 8/14/81, Notice 6/10/81—published 9/2/81, effective 10/7/81]
[Filed 3/18/82, Notice 2/3/82—published 4/14/82, effective 5/19/82]
[Filed 10/6/83, Notice 7/20/83—published 10/26/83, effective 12/1/83]
[Filed emergency 11/30/83 after Notice 10/26/83—published 12/21/83, effective 11/30/83]
[Filed 5/11/84, Notice 3/14/84—published 6/6/84, effective 7/12/84]
[Filed 7/13/84, Notice 6/6/84—published 8/1/84, effective 9/5/84]◊
[Filed 11/8/84, Notice 9/12/84—published 12/5/84, effective 1/9/85]
[Filed 1/11/85, Notice 11/7/84—published 1/30/85, effective 3/6/85]
[Filed 4/4/85, Notice 12/5/84—published 4/24/85, effective 5/29/85]
[Filed 7/10/85, Notice 6/5/85—published 7/31/85, effective 9/4/85]
[Filed 1/17/86, Notice 8/14/85—published 2/12/86, effective 3/21/86]
[Filed 8/5/88, Notice 3/23/88—published 8/24/88, effective 9/28/88]
[Filed 2/17/89, Notice 12/14/88—published 3/8/89, effective 4/12/89]
[Filed 11/22/89, Notice 9/20/89—published 12/13/89, effective 1/17/90]
[Filed 4/13/90, Notice 2/21/90—published 5/2/90, effective 6/6/90]
[Filed 7/20/90, Notice 4/4/90—published 8/8/90, effective 9/12/90]◊
[Filed 3/15/91, Notice 12/26/90—published 4/3/91, effective 5/8/91]
[Filed emergency 8/16/91—published 9/4/91, effective 8/16/91]
[Filed 2/13/92, Notice 12/25/91—published 3/4/92, effective 4/8/92]
[Filed 8/25/95, Notice 3/15/95—published 9/13/95, effective 10/18/95**]
[Filed 9/4/98, Notice 7/15/98—published 9/23/98, effective 10/28/98]
[Filed 6/11/99, Notice 4/7/99—published 6/30/99, effective 8/4/99]

*Effective date of rule 600—2.7 delayed by the Administrative Rules Review Committee 70 days.
**Effective date of 645—subrule 141.3(2), delayed until adjournment of the 1996 General Assembly by the Administrative Rules Review Committee at its meeting held October 10, 1995.
◊Two ARCs

# CHAPTER 143
# CONTINUING EDUCATION

[Prior to 8/24/88, see Nursing Home Administrators Board of Examiners [600], Ch 3]
[Prior to 9/13/95, see 645—Chapter 142]

**645—143.1(272C) Definitions.**

*"Audit"* means the selection of licensees for verification of satisfactory completion of continuing education requirements during a specified time period or the selection of providers for verification of adherence to continuing education provider requirements during a specified time period.

*"Continuing education"* means planned, organized learning activities acquired following initial licensure and designed to maintain, improve, or expand administrators' knowledge and skills or to develop new knowledge and skills relevant to administration for the enhancement of practice, education, or theory development to the end of improving the safety and welfare of the public.

*"Formal offering"* means an extension course, independent study, or other course which is offered for academic credit by an accredited institution of higher education.

*"National Continuing Education Review Service (NCERS)"* means the continuing education review service operated by the National Association of Boards of Examiners for Nursing Home Administrators, #200, 808 17th Street NW, Washington, DC 20006.

**645—143.2(272C) Continuing education requirements.**

**143.2(1)** Beginning October 1, 1995, each person licensed to practice nursing home administration in this state shall complete a minimum of 40 hours of continuing education approved by the board. Compliance with the requirement of the continuing education is a prerequisite for license renewal in each subsequent license renewal year.

**143.2(2)** The continuing education compliance period shall extend from October 1 of one odd-numbered year of a biennium to September 30 of the next odd-numbered year of the biennium during which period attendance at approved continuing education programs may be used as evidence of fulfilling continuing education requirements for the subsequent license renewal period beginning January 1.

**143.2(3)** To renew a nursing home administrator's license for the next renewal period the licensee shall submit a completed report form which documents the completion of continuing education requirements or exceptions to the requirements, as outlined in 143.5(272C); incomplete forms and forms which reflect insufficient approved continuing education hours to qualify for license renewal shall be returned to the licensee along with any fees submitted for license renewal.

The board will periodically audit continuing education report forms of licensees for accuracy and attendance verification. This will be done on a random basis of no less than 10 percent of total licensees each renewal period. Additionally, auditing may be done as part of any disciplinary action and on all renewal applications not filed prior to the expiration date of a license.

**143.2(4)** If a licensee is initially licensed during the first 12 months of the continuing education period, the licensee shall complete at least 20 hours of continuing education for the first renewal. If a licensee is initially licensed during the second year of the continuing education period, the licensee is not required to complete continuing education for the first renewal.

**143.2(5)** Continuing education hours shall be completed in the compliance period for which the license is issued. Continuing education credits from a previous license period shall not be used, nor shall credits be accumulated for use in a future licensing period. Credit will not be accepted for a duplication of offering within a license period. New licensees may obtain hours beginning with the first day of the month following the licensure examination.

**143.2(6)** Units of measurement used for continuing education courses shall be as follows:

1 contact hour = 60 minutes of instruction.

1 contact hour = 180 minutes of work on self-study.

1 academic semester hour = 15 contact hours of instruction.

1 academic quarter hour = 12 contact hours of instruction.

**143.2(7)** The licensee shall retain a transcript of certificate of attendance to verify completion of each continuing education activity for a minimum of four years; notarized copies or original documents shall be provided to the board upon request.

**143.2(8)** It is the responsibility of licensees to finance their costs of continuing education.

**645—143.3(272C) Standards for approval.** A continuing education activity shall be qualified for approval if the board determines that:

**143.3(1)** It constitutes an organized program of learning (including a workshop or symposium) which contributes directly to the professional competency of the licensee; and

**143.3(2)** It pertains to subject matters which integrally relate to the domains of practice of nursing home administration, as identified in 645—subrule 141.6(1).

**143.3(3)** It is conducted by individuals who have a special education, training and experience by reason of which individuals should be considered experts concerning the subject matter of the program.

**143.3(4)** Except as may be allowed pursuant to rule 143.5(272C), no licensee shall receive credit exceeding 20 percent of the annual total required hours for self-study, including television viewing, video or sound-recorded programs, correspondence work, or research, or by other similar means which is not directly sponsored by and supervised by an accredited postsecondary college or university or an approved provider.

**645—143.4(272C) Approval of programs and activities.** Continuing education units are the number of actual contact hours of instruction; no credit is given for registration, introduction, intermission or evaluation periods.

**143.4(1)** *Prior approval of activities.* Offerings and providers approved by the National Continuing Education Review Service (NCERS) are deemed approved by the board. Organizations which desire prior approval of a course, program or other continuing education activity from NCERS may apply for approval to the National Continuing Education Review Service (NCERS), 808 17th St. NW, #200, Washington, DC 20006.

Individual program approval will not be granted except as provided in 143.4(3).

Providers of continuing education may apply to be an Iowa approved provider for continuing education by contacting the Iowa board of examiners for nursing home administrators. Providerships may be approved by the board for a period of four years from the approval date.

*a.* Applicants for an approved providership must show evidence of capability to adhere to criteria indicative of quality continuing education activities for nursing home administrators.

(1) Program content must integrally relate to the domains of practice of nursing home administration, as identified in 645—subrule 141.6(1).

(2) Programs must be available to all nursing home administrators.

(3) Must show evidence of the following:

1. Definition of the administrative authority. The definition shall include: the name of the administrative authority if it is one person; the names of each member of the administrative authority, and a narrative description of their relationship (e.g., partnership, corporation, board of directors) and roles, if applicable.

2. Biographical information about each member of the administrative authority. This information shall support that the authority is knowledgeable in administration and has the capability to organize, execute, and evaluate the overall operations of the providership.

3. Position description of the administrative authority. The description shall explain the authority's role in planning, decision making and formulation of policies affecting the continuing education offerings.

4. Table of organization. The table shall delineate the administrative authority for the providership; define the line relationships within the providership as well as within the parent organization, if applicable; illustrate cooperative or advisory relationships, if applicable.

5. Goals, philosophy, and objectives. These shall indicate the overall direction of the providership for a five-year period.

6. Program offerings. The program offerings shall reflect the goals and philosophy.

7. Evidence of nursing home administrator participation. Nursing home administrator participation shall be documented in a written statement of policy, denotation on the table of organization, and planning minutes.

8. Plan on subject matter. The plan shall indicate the mechanism of assessing the learning needs of the population to be served and describe how the provider shall meet the criteria related to appropriate subject matter in its offerings as specified in 645—subrule 141.6(1).

9. Plan for a record system and maintenance. The plan shall include the following: a policy regarding the content of participant record; a policy regarding the content of provider records including a roster of participants, and information regarding the offering and faculty; a policy regarding the length and method of record storage for a minimum of three years; a policy regarding retrieval of records; a policy to provide these records to the board of examiners for nursing home administrators upon request; a sample of the certificate to be used.

10. Plan for verification of completion. The plan shall include a system for verification of satisfactory completion of the offering by each participant; a method of informing the participant of the consequences of not completing an offering in its entirety; a policy regarding granting of partial credit for less than full attendance due to emergency conditions; a method of informing the participant of the control methods to be employed to ensure completion of the offering.

11. Registration procedures.

12. Tuition and refund policy.

13. Plan for dealing with enrollee grievances.

14. Plans for evaluation. The plan shall include a design for participant evaluation which includes assessment of the instruction, resources and facilities; a method of notifying the participants that the evaluation may be submitted directly to the board; a design for provider evaluation which includes techniques that assess the effectiveness of each offering and the overall providership.

15. Plan for faculty selection. The plan shall describe the mechanism of selecting faculty who are current, knowledgeable, and skillful in the subject matter of the offering. Policy regarding time units of measurement shall be one contact hour equals 60 minutes of instruction.

16. Documents from two typical sample course offerings. Documents for each of these two offerings shall include: a narrative of the planning of the offering including evidence of administrator participation; a sample brochure or advertising, including time schedule; content of course, i.e., topical outline; teaching-learning methodologies and supportive materials; bibliography; a sample evaluation form for participant completion; a sample evaluation form for provider completion.

17. Plan for cosponsorship of offerings if applicable. The plan shall include: a policy on cosponsorship which addresses the mechanism for compliance with criteria and delineation of responsibilities of all parties; a sample contract or letter of agreement.

*b.* Completed applications will be submitted to the board for approval. The fee for a providership must accompany the application, as specified in rule 645—141.11(155). The Iowa board will issue to approved providers a provider number which must appear on all certificates of attendance.

*c.* Providers wishing reapproval at the end of their original or previous approved providership must follow the same application procedures, except only changes from the previously supplied written evidence need accompany the application. A providership may be voluntarily returned by the provider at any time, but the provider must keep records for a minimum of three years thereafter.

*d.* Audit of approved providers. The board may monitor approved providers for adherence to the criteria established. The board may order an audit of an approved provider or may initiate an audit as a result of a written complaint. The board may revoke the approved providership for willful or repeated failure to meet one or more of the criteria specified in 143.4(1)*"a."*

*e.* A notice of revocation will be issued to the provider. The provider will have 30 days to request a hearing for reconsideration of revocation. If a request for hearing is not received within 30 days, the revocation shall become effective immediately and shall be considered final. A provider whose approved status has been revoked shall no longer advertise as an approved provider.

**143.4(2)** *Formal offerings.* Formal offerings for academic credit which meet the qualifications of appropriate subject matter as specified in 645—subrule 141.6(1) or which are required as a part of a formal long-term care administration program which extends beyond the education completed for the original license shall be approved for continuing education credit. Questions about whether particular formal offerings will be approved may be directed to the continuing education committee of the board. The licensee shall retain a transcript exhibiting a passing grade for each formal offering.

**143.4(3)** *Postapproval of activities.* A licensee seeking credit for attendance and participation in an educational activity which was not otherwise approved shall submit to the board, within 60 days after completion of the activity, a request for credit which includes:

*a.* Licensee's name, address, and license number;

*b.* Description of course topic and outline;

*c.* Date(s) and place of offering;
*d.* Time schedule including commencement, breaks, and adjournment;
*e.* Name, title and résumé of the instructor;
*f.* Number of credit hours requested;
*g.* Proof of attendance and completion.

Within 60 days after review of such application the board shall advise the licensee in writing by ordinary mail whether the activity is approved and the number of credit hours allowed. A licensee not complying with the requirements of this subrule may be denied credit for such activity.

**143.4(4)** *Review of programs.* The board may monitor or review any approved continuing education program and may, upon evidence of significant variation in the program presented from the program approved, disapprove all or any part of the hours granted.

**645—143.5(272C) Exceptions to continuing education requirements.** The board may, in individual cases, grant exceptions to the minimum continuing education requirements or grant extensions of time within which to fulfill the same or make the required reports.

**143.5(1)** A licensee shall be deemed to have complied with the continuing education requirements during periods that the person:

*a.* Serves honorably on active duty in the military service as specified in Iowa Code section 272C.4.

*b.* Is a resident of another state or district having a continuing education requirement for the profession and meets all requirements of that state for practice therein.

*c.* Is a government employee working as a nursing home administrator and assigned to duty outside of the United States.

**143.5(2)** Waivers of the minimum continuing education requirements or time frames for earning or filing reports may be granted by the board for any period of time not to exceed one calendar year in individual cases involving disability or illness.

*a.* Written application for waiver or extension of time shall be made on forms provided by the board, signed by the licensee and an appropriate health care professional licensed by the board of medical examiners.

*b.* In the event that the disability or illness upon which a waiver has been granted continues beyond the period of the waiver, the licensee must reapply for an extension of the waiver.

*c.* The board may, as a condition of any waiver granted, require the applicant to make up a certain portion or all of the minimum educational requirements waived by such methods as may be prescribed by the board.

These rules are intended to implement Iowa Code chapter 272C.

[Filed 8/28/78, Notice 3/8/78—published 9/20/78, effective 10/25/78]
[Filed 8/14/81, Notice 6/10/81—published 9/2/81, effective 10/7/81]
[Filed 4/20/84, Notice 1/18/84—published 5/9/84, effective 6/14/84]
[Filed 7/10/85, Notice 6/5/85—published 7/31/85, effective 9/4/85]
[Filed 10/15/85, Notice 5/8/85—published 11/6/85, effective 12/11/85]
[Filed 1/17/86, Notice 8/14/85—published 2/12/86, effective 3/21/86]

[Filed 8/5/88, Notice 3/23/88—published 8/24/88, effective 9/28/88]
[Filed 11/22/89, Notice 9/20/89—published 12/13/89, effective 1/17/90]
[Filed 7/20/90, Notice 4/4/90—published 8/8/90, effective 9/12/90]
[Filed 8/25/95, Notice 3/15/95—published 9/13/95, effective 10/18/95]

CHAPTER 144
CHILD SUPPORT NONCOMPLIANCE
Rescinded IAB 6/30/99, effective 8/4/99

CHAPTER 145
IMPAIRED PRACTITIONER REVIEW COMMITTEE
Rescinded IAB 6/30/99, effective 8/4/99

CHAPTER 146
PETITIONS FOR RULE MAKING
Rescinded IAB 6/30/99, effective 8/4/99

CHAPTER 147
PUBLIC RECORDS AND FAIR INFORMATION PRACTICES
[Prior to 9/13/95, see 645—Chapter 149]
Rescinded IAB 6/30/99, effective 8/4/99

CHAPTER 148
DECLARATORY RULINGS
[Prior to 9/13/95, see 645—140.4(135E)]
Rescinded IAB 6/30/99, effective 8/4/99

CHAPTER 149
PUBLIC RECORDS AND FAIR INFORMATION PRACTICES
Rescinded IAB 9/13/95, effective 10/18/95; see 645—Chapter 147

CHAPTERS 150 to 159
Reserved

*OPHTHALMIC DISPENSERS*
CHAPTER 160
OPHTHALMIC DISPENSERS
Rescinded IAB 2/3/93, effective 1/15/93

CHAPTERS 161 to 168
Reserved

CHAPTER 169
PUBLIC RECORDS AND FAIR INFORMATION PRACTICES
Rescinded IAB 2/3/93, effective 1/15/93

CHAPTERS 170 to 179
Reserved

*b.* All renewal license applications that are submitted late (after the end of the compliance period) shall be subject to audit of continuing education reports.

*c.* Any physical therapist against whom a complaint is filed may be subject to an audit of continuing education.

*d.* The licensee must make the following information available to the board for auditing purposes:

(1) Date, place, course title, schedule, presenter(s).

(2) Number of contact hours for program attended.

(3) Official signature of sponsor indicating successful completion of course.

*e.* For auditing purposes the physical therapist must retain the above information for four years.

**645—200.13** Reserved.

**645—200.14(272C) Hearings.** In the event of denial, in whole or part, of credit for continuing education activity, the licensee shall have the right, within 20 days after the sending of the notification of denial by ordinary mail, to request a hearing which shall be held within 60 days after receipt of the request for hearing. The hearing shall be conducted by the board or an administrative law judge designated by the board. If the hearing is conducted by an administrative law judge, the law judge shall submit a transcript of the hearing including exhibits to the board after the hearing with the proposed decision of the law judge. The decision of the board or decision of the administrative law judge after adoption by the board shall be final.

**645—200.15(272C) Disability or illness.** The board may, in individual cases involving disability or illness, grant waivers of the minimum continuing education requirements or extensions of time within which to fulfill them or make the required reports. No waiver or extension of time shall be granted unless written application shall be made on forms provided by the board and signed by the licensee and an appropriately licensed health care professional and the waiver is acceptable to the board. Waivers of the minimum continuing education requirements may be granted by the board for any period of time not to exceed one calendar year. In the event that the disability or illness upon which a waiver has been granted continues beyond the period of the waiver, the licensee must reapply for an extension waiver. The board may, as a condition of any waiver granted, require the applicant to make up a certain portion or all of the minimum educational requirements waived.

**645—200.16(272C) Complaint.** Rescinded IAB 6/30/99, effective 8/4/99.

**645—200.17(272C) Report of malpractice claims or actions or disciplinary actions.** Rescinded IAB 6/30/99, effective 8/4/99.

**645—200.18(272C) Investigation of complaints or malpractice claims.** Rescinded IAB 6/30/99, effective 8/4/99.

**645—200.19(272C) Informal settlement and license denial.** Rescinded IAB 6/30/99, effective 8/4/99.

**645—200.20(272C) Disciplinary procedure.** Rescinded IAB 6/30/99, effective 8/4/99.

**645—200.21(272C) Method of discipline.** Rescinded IAB 6/30/99, effective 8/4/99.

**645—200.22(272C) Discretion of board.** Rescinded IAB 6/30/99, effective 8/4/99.

**645—200.23(272C) Grounds for discipline.** The board may impose any of the disciplinary sanctions set forth in rule 645—13.3(272C), including civil penalties in an amount not to exceed $1000, when the board determines that a licensee is guilty of any of the following acts or offenses.

**200.23(1)** All grounds listed in Iowa Code section 147.55.

**200.23(2)** Violation of the rules promulgated by the board.

**200.23(3)** Personal disqualifications:

*a.* Mental or physical inability reasonably related to and adversely affecting the licensee's ability to practice in a safe and competent manner.

*b.* Involuntary commitment for treatment of mental illness, drug addiction or alcoholism.

**200.23(4)** Practicing the profession while the license is suspended or lapsed.

**200.23(5)** Revocation, suspension, or other disciplinary action taken by a licensing authority of another state, territory, or country; or failure by the licensee to report in writing to the Iowa board of physical and occupational therapy examiners revocation, suspension, or other disciplinary action taken by a licensing authority of another state, territory, or country; or both.

**200.23(6)** Negligence by the licensee in the practice of the profession, which is a failure to exercise due care including negligent delegation to or supervision of employees or other individuals whether or not injury results; or any conduct, practice or conditions which impair the ability to safely and skillfully practice the profession.

**200.23(7)** Failure to comply with the following rules of ethical conduct and practice.

*a.* A physical therapist shall not practice outside the scope of the license.

*b.* When the physical therapist does not possess the skill to evaluate a patient, plan the treatment program, or carry out the treatment, the physical therapist is obligated to assist in identifying a professionally qualified licensed practitioner to perform the service.

*c.* The practice of physical therapy shall minimally consist of:

(1) Interpreting all referrals.

(2) Evaluating each patient.

(3) Identifying and documenting individual patient's problems and goals.

(4) Establishing and documenting a plan of care.

(5) Providing appropriate treatment.

(6) Determining the appropriate portions of the treatment program to be delegated to assistive personnel.

(7) Appropriately supervising individuals as described in rule 200.24(272C).

(8) Providing timely patient reevaluation.

(9) Maintaining timely and adequate patient records of all physical therapy activity and patient response.

*d.* It is the responsibility of the physical therapist to inform the referring practitioner when any requested treatment procedure is inadvisable or contraindicated. The physical therapist shall refuse to carry out orders that are inadvisable or contraindicated and advise the referring practitioner of such orders.

*e.* Treatment shall not be continued beyond the point of possible benefit to the patient or by treating more frequently than necessary to obtain maximum therapeutic effect.

*f.* It is unethical for the physical therapist to directly or indirectly request, receive, or participate in the dividing, transferring, assigning, rebating, or refunding of an unearned fee or to profit by means of credit or other valuable consideration as an unearned commission, discount, or gratuity in connection with the furnishing of physical therapy services.

*g.* The physical therapist shall not exercise undue influence on patients to purchase equipment produced or supplied by a company in which the physical therapist owns stock or has any other direct or indirect financial interest.

*h.* Physical therapists shall not permit another person to use their licenses for any purpose.

*i.* A physical therapist shall not obtain, possess, or attempt to obtain or possess a controlled substance without lawful authority or sell, prescribe, give away, or administer a controlled substance in the practice of physical therapy.

*j.* A physical therapist shall not verbally or physically abuse a patient.

*k.* A physical therapist shall not engage in sexual misconduct. Sexual misconduct includes the following:

(1) Engaging in or soliciting a sexual relationship, whether consensual or nonconsensual, with a patient.

(2) Making sexual advances, requesting sexual favors, or engaging in other verbal conduct or physical contact of a sexual nature with a patient.

**200.23(8)** Failure to adequately supervise personnel in accordance with the standards for supervision set forth in rule 200.24(272C).

**200.23(9)** Unethical business practices, consisting of any of the following:

*a.* False or misleading advertising.

*b.* Betrayal of a professional confidence.

*c.* Falsifying patient's records.

**200.23(10)** Failure to notify the board of a change of name or address within 30 days after it occurs.

**200.23(11)** Submission of a false report of continuing education, or failure to submit the required report of continuing education.

**200.23(12)** Failure to notify the board within 30 days after occurrence of any judgment or settlement of a malpractice claim or disciplinary action taken by another state.

**200.23(13)** Failure to comply with a subpoena issued by the board.

**200.23(14)** Failure to report to the board as provided in Iowa Code section 272C.9 any violation by another licensee of the reasons for disciplinary action as listed in this rule.

**200.23(15)** Failure to report to the board as provided in Iowa Code section 272C.9 any violation by a physical therapist assistant of the reasons for disciplinary action as listed in rule 645—202.20(272C).

**200.23(16)** Obtaining a license by fraud or misrepresentation.

**200.23(17)** Conviction of a felony related to the practice of physical therapy or the conviction of any felony that would affect the licensee's ability to practice physical therapy. A copy of the record of conviction shall be conclusive evidence. Conviction shall include a finding or verdict of guilty, a plea of guilty, an admission of guilt, or a plea of nolo contendere.

**200.23(18)** Professional incompetency. Professional incompetency includes but is not limited to:

*a.* A substantial lack of knowledge or ability to discharge professional obligations within the physical therapist's practice;

*b.* A substantial deviation by the physical therapist from the standards of learning or skill ordinarily possessed and applied by other physical therapists in the state of Iowa acting in the same or similar circumstances;

*c.* A failure by a physical therapist to exercise in a substantial respect that degree of care which is ordinarily exercised by the average physical therapist in the state of Iowa acting in the same or similar circumstances;

*d.* A willful or repeated departure from or the failure to conform to the minimal standard of acceptable and prevailing practice of physical therapy in the state of Iowa.

**200.23(19)** Inability to practice physical therapy with reasonable skill and safety by reason of a mental or physical impairment or chemical abuse.

**200.23(20)** Violating a lawful order of the board, previously entered by the board in a disciplinary or licensure hearing, or violating the terms and provisions of a consent agreement or informal settlement between a licensee and the board.

**200.23(21)** Failure to respond, when requested, to communications of the board within 30 days of the mailing of such communication by registered or certified mail.

**200.23(22)** Obtaining third-party payment through fraudulent means. Third-party payers include, but are not limited to, insurance companies and government reimbursement programs. Obtaining payment through fraudulent means includes, but is not limited to:

*a.* Reporting incorrect treatment dates for the purpose of obtaining payment;

*b.* Reporting charges for services not rendered;

*c.* Incorrectly reporting services rendered for the purpose of obtaining payment which is greater than that to which the licensee is entitled; or

*d.* Aiding a patient in fraudulently obtaining payment from a third-party payer.

**200.23(23)** Practicing without a current license or practicing when a license is lapsed.

**645—200.24(272C) Supervision requirements.**

**200.24(1)** Licensed physical therapist assistants may assist in providing physical therapy services under immediate telecommunicative supervision as long as the physical therapy services are rendered in accordance with the minimal frequency standards set forth in subrule 200.24(4).

**200.24(2)** Licensed physical therapist assistants may assist in providing physical therapy services as long as supervision and the physical therapy services are rendered in accordance with the minimal frequency standards set forth in subrule 200.24(4).

**200.24(3)** When providing physical therapy services under the supervision of a physical therapist, the physical therapist assistant shall:

*a.* Provide physical therapy services only under the supervision of the physical therapist.

*b.* Consult the supervising physical therapist if procedures are believed not to be in the best interest of the patient or if the assistant does not possess the skills necessary to provide the procedures.

*c.* Provide treatment only after evaluation and development of a treatment plan by the physical therapist.

*d.* Gather data relating to the patient's disability, but not interpret the data as it pertains to the plan of care.

*e.* Refer inquiries that require interpretation of patient information to the physical therapist.

*f.* Communicate any change, or lack of change, which occurs in the patient's condition which may need the assessment of the physical therapist.

**200.24(4)** The physical therapist must provide patient evaluation and participate in treatment based upon the health care admission or residency status of the patient being treated. The minimal frequency shall be:

| Patient's Health Care Residency or Admission Status | Frequency of Physical Therapist Treatment |
|---|---|
| Hospital, acute care | Every 4th visit or 2nd calendar day |
| Hospital, non-CARF | Every 4th visit or 2nd calendar day |
| Hospital, CARF accredited beds | Every 5th visit or 5th calendar day |
| Skilled nursing | Every 5th visit or 5th calendar day |
| Home health | Every 5th visit or 10th calendar day |
| Nursing facility | Every 10th visit or 10th calendar day |
| Iowa educational agency | Every 5th visit or 30th calendar day |
| Other facility/admissions status | Every 5th visit or 10th calendar day |

**200.24(5)** A physical therapist may be responsible for supervising not more than two physical therapist assistants who are providing physical therapy per calendar day. This includes physical therapist assistants being supervised by telecommunicative supervision. However, a physical therapist assistant may be supervised by any number of physical therapists. The physical therapist is responsible for maintaining timely records which indicate the names of the physical therapist assistants for whom the physical therapist has supervisory responsibility.

**200.24(6)** The signature of a physical therapist assistant or physical therapist on a physical therapy treatment record indicates that the physical therapy services were provided in accordance with the rules and regulations for practicing as a physical therapist or physical therapist assistant.

**200.24(7)** The physical therapist assumes responsibility for all delegated tasks and shall not delegate a service which exceeds the expertise of the assistive personnel.

Following are activities which must be performed by the physical therapist and cannot be delegated to any assistive personnel including a physical therapist assistant:

1. Interpretation of referrals.
2. Initial physical therapy evaluation and reevaluations.
3. Identification, determination or modification of patient problems, goals, and care plans.
4. Final discharge evaluation and establishment of the discharge plan.
5. Assurance of the qualifications of all assistive personnel to perform assigned tasks through written documentation of their education or training that is maintained and available at all times.
6. Delegation and instruction of the services to be rendered by the physical therapist assistant or other assistive personnel, including, but not limited to, specific tasks or procedures, precautions, special problems, and contraindicated procedures.
7. Timely review of documentation, reexamination of the patient and revision of the plan when indicated.

**200.24(8)** Other assistive personnel: provision of patient care independently. Physical therapists are responsible for patient care provided by assistive personnel under their supervision. Physical therapy aides and other assistive personnel shall not provide independent patient care unless each of the following standards is satisfied:

*a.* The supervising physical therapist has physical participation in the patient's treatment or evaluation, or both, each treatment day.

*b.* The assistive personnel may provide independent patient care only while under the on-site supervision of the supervising physical therapist. On-site supervision means that the supervising physical therapist shall:

(1) Be continuously on site and present in the department or facility where the assistive personnel are performing services; and

(2) Be immediately available to assist the person being supervised in the services being performed; and

(3) Provide continued direction of appropriate aspects of each treatment session in which a component of treatment is delegated to assistive personnel.

*c.* Documentation made in physical therapy records by unlicensed assistive personnel shall be cosigned by the supervising physical therapist.

*d.* The physical therapist provides periodic reevaluation of assistive personnel's performance in relation to the patient.

**200.24(9)** Other assistive personnel. Physical therapy aides and other assistive personnel may assist a physical therapist assistant in providing patient care in the absence of a physical therapist only if the physical therapist assistant maintains in-sight supervision of the physical therapy aide or other assistive personnel and the physical therapist assistant is primarily and significantly involved in that patient's care.

**645—200.25(272C) Peer review committees.** Rescinded IAB 6/30/99, effective 8/4/99.

**645—200.26(21) Conduct of persons attending meetings.** Rescinded IAB 6/30/99, effective 8/4/99.

These rules are intended to implement Iowa Code chapters 17A, 21, 147, 148A, 148B, and 272C.

[Filed 7/12/66; amended 5/11/71, 3/14/75, 6/10/75]
[Filed 9/19/77, Notice 7/13/77—published 10/5/77, effective 11/9/77]
[Filed 7/17/79, Notice 5/30/79—published 8/8/79, effective 9/12/79]
[Filed 4/23/81, Notice 3/4/81 —published 5/13/81, effective 6/17/81]
[Filed 10/9/81, Notice 9/2/81—published 10/28/81, effective 12/2/81]
[Filed 4/9/82, Notice 3/3/82—published 4/28/82, effective 6/2/82]
[Filed 7/1/83, Notice 5/11/83—published 7/20/83, effective 8/25/83]
[Filed 11/10/83, Notice 9/14/83—published 12/7/83, effective 1/12/84]
[Filed 4/6/84, Notice 1/4/84—published 4/25/84, effective 5/31/84]
[Filed emergency 8/24/84 after Notice 7/4/84—published 9/12/84, effective 8/24/84]
[Filed 11/2/84, Notice 9/26/84—published 11/21/84, effective 12/26/84]
[Filed emergency after Notice 12/13/85, Notice 11/6/85—published 1/1/86, effective 12/13/85]
[Filed 1/10/86, Notice 8/14/85—published 1/29/86, effective 3/6/86]
[Filed 1/10/86, Notice 9/25/85—published 1/29/86, effective 3/6/86]
[Filed 8/4/86, Notice 6/4/86—published 8/27/86, effective 10/1/86]
[Filed 10/27/88, Notice 9/21/88—published 11/16/88, effective 12/21/88]
[Filed 11/9/89, Notice 9/6/89—published 11/29/89, effective 1/3/90]
[Filed 9/28/90, Notice 7/11/90—published 10/17/90, effective 11/21/90]
[Filed 7/3/91, Notice 4/17/91—published 7/24/91, effective 9/11/91]
[Filed 10/25/91, Notice 9/4/91—published 11/13/91, effective 12/18/91]
[Filed 4/14/92, Notice 2/5/92—published 5/13/92, effective 6/17/92]
[Filed 7/17/92, Notice 5/13/92—published 8/5/92, effective 9/9/92]
[Filed 10/1/92, Notice 6/24/92—published 10/28/92, effective 12/2/92]
[Filed 6/4/93, Notice 2/17/93—published 6/23/93, effective 7/28/93]
[Filed 8/13/93, Notice 6/23/93—published 9/1/93, effective 10/6/93]
[Filed 1/27/94, Notice 12/8/93—published 2/16/94, effective 3/23/94]
[Filed 7/15/94, Notice 4/13/94—published 8/3/94, effective 9/7/94]
[Filed 2/22/96, Notice 12/20/95—published 3/13/96, effective 4/17/96]
[Filed emergency 10/4/96, after Notice 7/17/96—published 10/23/96, effective 10/4/96]
[Filed 2/7/97, Notice 12/18/96—published 2/26/97, effective 4/2/97]
[Filed 8/8/97, Notice 5/21/97—published 8/27/97, effective 10/1/97]
[Filed 1/23/98, Notice 12/17/97—published 2/11/98, effective 3/18/98]
[Filed emergency 5/15/98—published 6/3/98, effective 5/27/98]
[Filed 6/11/99, Notice 4/7/99—published 6/30/99, effective 8/4/99]

*d.* A maximum of 15 hours for occupational therapists and 7.5 hours for occupational therapy assistants will be allowed per biennium for viewing videotaped presentations and attending in-service training programs of one hour or more if the following criteria are met:

(1) There is a sponsoring group or agency.

(2) There is a facilitator or program official present.

(3) The program official may not be the only attendee.

(4) The program meets all of the criteria of 201.15(1).

*e.* Home study courses that have a certificate of completion will be considered for a maximum of 15 hours for occupational therapists and 7.5 hours for occupational therapy assistants per biennium.

**201.15(3)** The following subject areas will be considered for a maximum of ten hours, for occupational therapists, and five hours, for occupational therapy assistants, of continuing education credit per biennium.

Business-related topics: administration, marketing, government regulations and other like topics.

General health topics: quality assurance, clinical research, CPR, abuse reporting and other like topics.

**645—201.16(272C) Reporting continuing education credits.**

**201.16(1)** A report of continuing education activities shall be submitted on a board-approved form with the renewal application by the end of the biennial license renewal period. All continuing education activities submitted must be completed in the continuing education compliance period for which the license was issued as specified in 201.14(1) or a penalty fee will be assessed as outlined in 201.12(5).

**201.16(2)** Failure to receive a renewal application shall not relieve the licensee of the responsibility of meeting the continuing education requirements and submitting the renewal fee by the end of the compliance period.

**201.16(3)** Review of continuing education reports.

*a.* After each educational biennium the board will audit a percentage of the continuing education reports before granting the renewal of licenses to those being audited.

*b.* Licensees whose renewal license applications are submitted late (after the end of the compliance period) shall be required to submit to an audit of continuing education reports.

*c.* Any occupational therapist or occupational therapy assistant against whom a complaint is filed may be subject to an audit of continuing education.

*d.* Occupational therapists and occupational therapy assistants are responsible for keeping on file required documents that can support the continuing education attendance and participation reports submitted to the board for license renewal. These documents shall include a program brochure including the statement of purpose, course objectives, qualification of speakers, program outline with a time frame designation and a certification of attendance. Programs or other educational activities that do not meet board standards will be disallowed. Failure to submit documentation supporting the continuing education report will disqualify the licensee's eligibility for license renewal.

*e.* The licensee is required to make available to the board upon request documents to support the continuing education activities (as stated in 201.16(3)"*d*") for auditing purposes for four years.

**645—201.17(272C) Hearings.** In the event of denial, in whole or part, of credit for continuing education activity, the licensee shall have the right, within 20 days after the sending of the notification of denial by ordinary mail, to request a hearing which shall be held within 60 days after receipt of the request for hearing. The hearing shall be conducted by the board or an ALJ designated by the board. If the hearing is conduced by an ALJ, the ALJ shall submit a transcript of the hearing, including exhibits, to the board after the hearing with the proposed decision of the ALJ. The decision of the board or decision of the ALJ after adoption by the board shall be final.

**645—201.18(272C) Complaint.** Rescinded IAB 6/30/99, effective 8/4/99.

**645—201.19(272C) Investigation of complaints or malpractice claims.** Rescinded IAB 6/30/99, effective 8/4/99.

**645—201.20(272C) Informal settlement and license denial.** Rescinded IAB 6/30/99, effective 8/4/99.

**645—201.21(272C) Disciplinary procedure.** Rescinded IAB 6/30/99, effective 8/4/99.

**645—201.22(272C) Method of discipline.** Rescinded IAB 6/30/99, effective 8/4/99.

**645—201.23(272C) Discretion of board.** Rescinded IAB 6/30/99, effective 8/4/99.

**645—201.24(272C) Grounds for discipline.** The board may impose any of the disciplinary sanctions set forth in rule 645—13.1(272C), including civil penalties in an amount not to exceed $1000, when the board determines that a licensee is guilty of any of the following acts or offenses.

**201.24(1)** All grounds listed in Iowa Code section 147.55.

**201.24(2)** Violation of the rules promulgated by the board.

**201.24(3)** Personal disqualifications:

*a.* Mental or physical inability reasonably related to and adversely affecting the licensee's ability to practice in a safe and competent manner.

*b.* Involuntary commitment for treatment of mental illness, drug addiction or alcoholism.

**201.24(4)** Practicing the profession while the license is suspended or lapsed.

**201.24(5)** Revocation, suspension, or other disciplinary action taken by a licensing authority of another state, territory, or country; or failure by the licensee to report in writing to the Iowa board of physical and occupational therapy examiners revocation, suspension, or other disciplinary action taken by a licensing authority of another state, territory, or country; or both.

**201.24(6)** Negligence by the licensee in the practice of the profession, which is a failure to exercise due care including negligent delegation to or supervision of employees or other individuals whether or not injury results; or any conduct, practice or conditions which impair the ability to safely and skillfully practice the profession.

**201.24(7)** Failure to comply with the following rules of ethical conduct and practice.

*a.* An occupational therapist or occupational therapy assistant shall not practice outside the scope of the license.

*b.* When the occupational therapist or occupational therapy assistant does not possess the skill to evaluate a patient, plan the treatment program, or carry out the treatment, the occupational therapist or occupational therapy assistant is obligated to assist in identifying a professionally qualified licensed practitioner to perform the service.

*c.* The practice of occupational therapy shall minimally consist of:

(1) Interpreting all referrals.

(2) Evaluating each patient.

(3) Identifying and documenting individual patient's problems and goals.

(4) Establishing and documenting a plan of care.

(5) Providing appropriate treatment.

(6) Determining the appropriate portions of the treatment program to be delegated to assistive personnel.

(7) Appropriately supervising individuals as described in rule 201.13(272C).

(8) Providing timely patient reevaluation.

(9) Maintaining timely and adequate patient records of all occupational therapy activity and patient response.

*d.* It is the responsibility of the occupational therapist to inform the referring practitioner when any requested treatment procedure is inadvisable or contraindicated. The occupational therapist shall refuse to carry out orders that are inadvisable or contraindicated and advise the referring practitioner as such.

*e.* Treatment shall not be continued beyond the point of possible benefit to the patient or by treating more frequently than necessary to obtain maximum therapeutic effect.

*f.* It is unethical for the occupational therapist or occupational therapy assistant to directly or indirectly request, receive, or participate in the dividing, transferring, assigning, rebating, or refunding of an unearned fee or to profit by means of credit or other valuable consideration as an unearned commission, discount, or gratuity in connection with the furnishing of occupational therapy services.

*g.* The occupational therapist or occupational therapy assistant shall not exercise undue influence on patients to purchase equipment produced or supplied by a company in which the occupational therapist or occupational therapy assistant owns stock or has any other direct or indirect financial interest.

*h.* Occupational therapists and occupational therapy assistants shall not permit another person to use their licenses for any purpose.

*i.* An occupational therapist and occupational therapy assistant shall not obtain, possess, or attempt to obtain or possess a controlled substance without lawful authority or sell, prescribe, give away, or administer a controlled substance in the practice of occupational therapy.

*j.* An occupational therapist and occupational therapy assistant shall not verbally or physically abuse a patient.

*k.* An occupational therapist and occupational therapy assistant shall not engage in sexual misconduct. Sexual misconduct includes the following:

(1) Engaging in or soliciting a sexual relationship, whether consensual or nonconsensual, with a patient.

(2) Making sexual advances, requesting sexual favors, or engaging in other verbal conduct or physical contact of a sexual nature with a patient.

**201.24(8)** Failure to adequately supervise personnel in accordance with the standards for supervision set forth in rule 201.13(272C).

**201.24(9)** Unethical business practices, consisting of any of the following:

*a.* False or misleading advertising.

*b.* Betrayal of a professional confidence.

*c.* Falsifying a patient's records.

**201.24(10)** Failure to notify the board of a change of name or address within 30 days after it occurs.

**201.24(11)** Submission of a false report of continuing education, or failure to submit the required report of continuing education.

**201.24(12)** Failure to notify the board within 30 days after occurrence of any judgment or settlement of a malpractice claim or disciplinary action taken by another state.

**201.24(13)** Failure to comply with a subpoena issued by the board.

**201.24(14)** Failure to report to the board as provided in Iowa Code section 272C.9 any violation by another licensee of the reasons for disciplinary action as listed in this rule.

**201.24(15)** Failure to report to the board as provided in Iowa Code section 272C.9 any violation by an occupational therapist or occupational therapy assistant of the reasons for disciplinary action as listed in this rule.

**201.24(16)** Obtaining a license by fraud or misrepresentation.

**201.24(17)** Conviction of a felony related to the practice of occupational therapy or the conviction of any felony that would affect the licensee's ability to practice occupational therapy. A copy of the record of conviction shall be conclusive evidence. Conviction shall include a finding or verdict of guilty, a plea of guilty, an admission of guilt, or a plea of nolo contendere.

**201.24(18)** Professional incompetency. Professional incompetency includes but is not limited to:

*a.* A substantial lack of knowledge or ability to discharge professional obligations within the occupational therapist's or occupational therapy assistant's practice;

*b.* A substantial deviation by the occupational therapist or occupational therapy assistant from the standards of learning or skill ordinarily possessed and applied by other occupational therapists and occupational therapy assistants in the state of Iowa acting in the same or similar circumstances;

*c.* A failure by an occupational therapist or occupational therapy assistant to exercise in a substantial respect that degree of care which is ordinarily exercised by the average occupational therapist or occupational therapy assistant in the state of Iowa acting in the same or similar circumstances;

*d.* A willful or repeated departure from or the failure to conform to the minimal standard of acceptable and prevailing practice of occupational therapy in the state of Iowa.

**201.24(19)** Inability to practice occupational therapy with reasonable skill and safety by reason of a mental or physical impairment or chemical abuse.

**201.24(20)** Violating a lawful order of the board, previously entered by the board in a disciplinary or licensure hearing, or violating the terms and provisions of a consent agreement or informal settlement between a licensee and the board.

**201.24(21)** Failure to respond, when requested, to communications of the board within 30 days of the mailing of such communication by registered or certified mail.

**201.24(22)** Obtaining third-party payment through fraudulent means. Third-party payers include, but are not limited to, insurance companies and government reimbursement programs. Obtaining payment through fraudulent means includes, but is not limited to:

*a.* Reporting incorrect treatment dates for the purpose of obtaining payment;

*b.* Reporting charges for services not rendered;

*c.* Incorrectly reporting services rendered for the purpose of obtaining payment which is greater than that to which the licensee is entitled; or

*d.* Aiding a patient in fraudulently obtaining payment from a third-party payer.

**201.24(23)** Practicing without a current license or practicing when a license is lapsed.

**645—201.25(272C) Peer review committees.** Rescinded IAB 6/30/99, effective 8/4/99.

**645—201.26(21,272C) Conduct of persons attending meetings.** Rescinded IAB 6/30/99, effective 8/4/99.

These rules are intended to implement Iowa Code chapters 21, 147, 148B and 272C.

[Filed 5/26/78, Notice 4/5/78—published 6/14/78, effective 7/19/78]
[Filed 2/8/79, Notice 10/18/78—published 3/7/79, effective 4/13/79]
[Filed 7/17/79, Notice 5/30/79—published 8/8/79, effective 9/12/79]
[Filed 1/17/80, Notice 9/5/79—published 2/6/80, effective 3/14/80]
[Filed 11/25/80, Notice 2/6/80—published 12/24/80, effective 1/31/81]
[Filed 4/23/81, Notice 3/4/81—published 5/13/81, effective 6/17/81]
[Filed 10/9/81, Notice 9/2/81—published 10/28/81, effective 12/2/81]
[Filed 4/9/82, Notice 3/3/82—published 4/28/82, effective 6/2/82]
[Filed 4/20/83, Notice 11/24/82—published 5/11/83, effective 7/1/83]
[Filed 7/1/83, Notice 5/11/83—published 7/20/83, effective 8/25/83]
[Filed 10/6/83, Notice 7/20/83—published 10/26/83, effective 11/30/83]
[Filed 11/10/83, Notice 9/14/83—published 12/7/83, effective 1/12/84]
[Filed 4/6/84, Notice 1/4/84—published 4/25/84, effective 5/31/84]
[Filed 9/7/84, Notice 7/18/84—published 9/26/84, effective 10/31/84]
[Filed 11/2/84, Notice 9/26/84—published 11/21/84, effective 12/26/84]
[Filed 4/17/85, Notice 1/30/85—published 5/8/85, effective 6/12/85]
[Filed 1/10/86, Notice 8/14/85—published 1/29/86, effective 3/6/86]
[Filed 1/10/86, Notice 9/25/85—published 1/29/86, effective 3/6/86]
[Filed 4/4/86, Notice 2/26/86—published 4/23/86, effective 5/28/86]
[Filed 6/11/86, Notice 4/23/86—published 7/2/86, effective 8/6/86]
[Filed 10/27/88, Notice 9/21/88—published 11/16/88, effective 12/21/88]
[Filed 1/29/93, Notice 10/28/92—published 2/17/93, effective 3/24/93]
[Filed 8/13/93, Notice 6/23/93—published 9/1/93, effective 10/6/93]
[Filed 7/15/94, Notice 4/13/94—published 8/3/94, effective 9/7/94]
[Filed 1/27/95, Notice 11/9/94—published 2/15/95, effective 3/23/95]
[Filed emergency 10/4/96 after Notice 7/17/96—published 10/23/96, effective 10/4/96]
[Filed 7/10/98, Notice 6/3/98—published 7/29/98, effective 9/2/98]
[Filed 6/11/99, Notice 4/7/99—published 6/30/99, effective 8/4/99]

**202.11(7)** Individuals who were issued their licenses by reinstatement or interstate endorsement within six months of their birth month are exempt from meeting the continuing education requirement for the continuing education biennium in which the license is reinstated or issued by endorsement. Individuals will be required to report 20 hours of continuing education for the first renewal and every renewal thereafter.

**645—202.12(272C) Standards for approval.**

**202.12(1)** Continuing education is that education which is obtained by a professional or occupational licensee in order to maintain, improve, or expand skills and knowledge. A continuing education activity which meets all of the following criteria is appropriate for continuing education credit.

*a.* It constitutes an organized program of learning (including a workshop or symposium) which contributes directly to the professional competency of the licensee; and

*b.* It pertains to common subjects or other subject matters which integrally relate to the practice of physical therapy; and

*c.* It is conducted by individuals who have special education, training and experience by reason of which individuals should be considered experts concerning the subject matter of the program, and is accompanied by a paper, manual or outline which substantively pertains to the subject matter of the program and reflects program schedule.

*d.* It fulfills stated program goals or objectives, or both.

*e.* It provides proof of attendance to include the following:

(1) Date, place, course title, presenter(s).

(2) Number of program contact hours.

(3) Official signature of program sponsor.

**202.12(2)** Continuing education credit may be granted for the following:

*a.* A maximum of 10 hours of credit will be given for presenting professional programs which meet the criteria as listed in 645—200.11(1). Two hours of credit will be awarded for each hour of presentation. A course schedule or brochure must be maintained for audit.

*b.* Official transcripts indicating successful completion of academic courses which apply to the field of physical therapy will be necessary in order to receive the following continuing education credits:

One semester credit = 10 continuing education hours of credit;

One trimester credit = 8 continuing education hours of credit;

One quarter credit = 7 continuing education hours of credit.

*c.* Participation in research or other activities of which the results are published in a recognized professional publication. (Maximum of 10 hours per continuing education biennium.)

*d.* A maximum of 10 hours of viewing videotaped presentations will be allowed per biennium if the following criteria are met:

(1) There is a sponsoring group or agency.

(2) There is a facilitator or program official present.

(3) The program official may not be the only attendee.

(4) The program meets all the criteria of subrule 202.11(1).

*e.* Home study courses that have a certificate of completion will be considered for a maximum of 10 hours per biennium.

**202.12(3)** The subject areas listed below will be considered for a maximum of 10 hours of continuing education per biennium:

Business-related topics: marketing, time management, government regulations, and other like topics.

Personal skills topics: career burnout, communications skills, human relations, and other like topics.

General health topics: clinical research, CPR, child abuse reporting, and other like topics.

**645—202.13(272C) Reporting continuing education credits.**

**202.13(1)** A report of continuing education activities shall be submitted on a board-approved form with the renewal application by the end of the biennial license renewal period. All continuing education activities submitted must be completed in the continuing education compliance period for which the license was issued as specified in 202.11(3) or a late fee will be assessed as outlined in 202.10(4).

**202.13(2)** Failure to receive renewal application shall not relieve the physical therapist assistant of the responsibility of meeting continuing education requirements and submitting the fee for renewal by the end of the compliance period.

**202.13(3)** Audit of continuing education reports.

*a.* After each educational biennium the board will audit a percentage of the continuing education reports before granting the renewal of licenses to those being audited.

*b.* All renewal license applications that are submitted late (after the end of the compliance period) shall be subject to audit of continuing education reports.

*c.* Any physical therapist assistant against whom a complaint is filed may be subject to an audit of continuing education.

*d.* The licensee must make the following information available to the board for auditing purposes:

(1) Date, place, course title, schedule, presenter(s).

(2) Number of contact hours for program attended.

(3) Official signature of sponsor indicating successful completion of course.

*e.* For auditing purposes the physical therapist assistant must retain the above information for four years.

**645—202.14(272C) Hearings.** The board adopts herein by reference rule 645—200.14(272C).

**645—202.15(272C) Disability or illness.** The board adopts herein by reference rule 645—200.15(272C).

**645—202.16(272C) Complaint.** Rescinded IAB 6/30/99, effective 8/4/99.

**645—202.17(272C) Report of malpractice claims or actions or disciplinary actions.** Rescinded IAB 6/30/99, effective 8/4/99.

**645—202.18(272C) Investigation of complaints or malpractice claims.** Rescinded IAB 6/30/99, effective 8/4/99.

**645—202.19(272C) Informal settlement and license denial.** Rescinded IAB 6/30/99, effective 8/4/99.

**645—202.20(272C) Disciplinary procedure.** Rescinded IAB 6/30/99, effective 8/4/99.

**645—202.21(272C) Method of discipline.** Rescinded IAB 6/30/99, effective 8/4/99.

**645—202.22(272C) Discretion of board.** Rescinded IAB 6/30/99, effective 8/4/99.

**645—202.23(272C) Grounds for discipline.** The board may impose any of the disciplinary sanctions set forth in rule 645—13.1(272C), including civil penalties in an amount not to exceed $1000, when the board determines that a licensee is guilty of any of the following acts or offenses.

**202.23(1)** All grounds listed in Iowa Code section 147.55.

**202.23(2)** Violation of the rules promulgated by the board.

**202.23(3)** Personal disqualifications:

*a.* Mental or physical inability reasonably related to and adversely affecting the licensee's ability to practice in a safe and competent manner.

*b.* Involuntary commitment for treatment of mental illness, drug addiction or alcoholism.

**202.23(4)** Practicing the profession while the license is suspended or lapsed.

**202.23(5)** Revocation, suspension, or other disciplinary action taken by a licensing authority of another state, territory, or country; or failure by the licensee to report in writing to the Iowa board of physical and occupational therapy examiners revocation, suspension, or other disciplinary action taken by a licensing authority of another state, territory, or country; or both.

**202.23(6)** Negligence by the licensee in the practice of the profession, which is a failure to exercise due care including negligent delegation to or supervision of employees or other individuals, whether or not injury results; or any conduct, practice or conditions which impair the ability to safely and skillfully practice the profession.

**202.23(7)** Failure to comply with the following rules of ethical conduct and practice.

*a.* A physical therapist assistant shall not practice outside the scope of the license.

*b.* When the physical therapist assistant does not possess the skills or knowledge to perform the delegated tasks, the physical therapist assistant is obligated to inform the delegating physical therapist and refuse to perform the delegated tasks.

*c.* The physical therapist assistant shall not exercise undue influence on patients to purchase equipment produced or supplied by a company in which the physical therapist owns stock or has any other direct or indirect financial interest.

*d.* Physical therapist assistants shall not permit another person to use their licenses for any purpose.

*e.* A physical therapist assistant shall not obtain, possess, or attempt to obtain or possess a controlled substance without lawful authority or sell, prescribe, give away, or administer a controlled substance in the practice of physical therapy.

*f.* A physical therapist assistant shall not verbally or physically abuse a patient.

*g.* A physical therapist assistant shall not engage in sexual misconduct. Sexual misconduct includes the following:

(1) Engaging in or soliciting a sexual relationship, whether consensual or nonconsensual, with a patient.

(2) Making sexual advances, requesting sexual favors, or engaging in other verbal conduct or physical contact of a sexual nature with a patient.

*h.* The physical therapist assistant shall work only when supervised by a physical therapist and in accordance with rule 645—200.24(272C). If the available supervision does not meet the standards as set forth in rule 645—200.24(272C), the physical therapist assistant shall refuse to administer treatment.

*i.* The signature of the physical therapist assistant on a physical therapy treatment record indicates that the physical therapy services were provided in accordance with the rules and regulations for practicing as a physical therapist or physical therapist assistant.

**202.23(8)** Unethical business practices, consisting of any of the following:

*a.* False or misleading advertising.

*b.* Betrayal of a professional confidence.

*c.* Falsifying patient's records.

**202.23(9)** Failure to notify the board of a change of name or address within 30 days after it occurs.

**202.23(10)** Submission of a false report of continuing education, or failure to submit the required report of continuing education.

**202.23(11)** Failure to notify the board within 30 days after occurrence of any judgment or settlement of a malpractice claim or disciplinary action taken by another state.

**202.23(12)** Failure to comply with a subpoena issued by the board.

**202.23(13)** Failure to report to the board as provided in Iowa Code section 272C.9 any violation by another licensee of the reasons for disciplinary action as listed in this rule.

**202.23(14)** Failure to report to the board as provided in Iowa Code section 272C.9 any violation by a physical therapist of the reasons for disciplinary action as listed in rule 645—13.1(272C).

**202.23(15)** Obtaining a license by fraud or misrepresentation.

**202.23(16)** Conviction of a felony related to the practice of physical therapy or the conviction of any felony that would affect the licensee's ability to practice physical therapy. A copy of the record of conviction shall be conclusive evidence. Conviction shall include a finding or verdict of guilty, a plea of guilty, an admission of guilt, or a plea of nolo contendere.

**202.23(17)** Professional incompetency. Professional incompetency includes but is not limited to:

*a.* A substantial lack of knowledge or ability to discharge professional obligations within the physical therapist assistant's practice;

*b.* A substantial deviation by the physical therapist assistant from the standards of learning or skill ordinarily possessed and applied by other physical therapist assistants in the state of Iowa acting in the same or similar circumstances;

*c.* A failure by a physical therapist assistant to exercise that degree of care which is ordinarily exercised by the average physical therapist assistant in the state of Iowa acting in the same or similar circumstances;

*d.* A willful or repeated departure from or the failure to conform to the minimal standard of acceptable and prevailing practice of physical therapy in the state of Iowa.

**202.23(18)** Inability to practice physical therapy with reasonable skill and safety by reason of a mental or physical impairment or chemical abuse.

**202.23(19)** Violating a lawful order of the board, previously entered by the board in a disciplinary or licensure hearing, or violating the terms and provisions of a consent agreement or informal settlement between a licensee and the board.

**202.23(20)** Failure to respond, when requested, to communications of the board within 30 days of the mailing of such communication by registered or certified mail.

**202.23(21)** Obtaining third-party payment through fraudulent means. Third-party payers include, but are not limited to, insurance companies and government reimbursement programs. Obtaining payment through fraudulent means includes, but is not limited to:

*a.* Reporting incorrect treatment dates for the purpose of obtaining payment;

*b.* Reporting charges for services not rendered;

*c.* Incorrectly reporting services rendered for the purpose of obtaining payment which is greater than that to which the licensee is entitled; or

*d.* Aiding a patient in fraudulently obtaining payment from a third-party payer.

**202.23(22)** Practicing without a current license or practicing when a license is lapsed.

**645—202.24(272C) Supervision requirements.** The board adopts herein by reference rule 645—200.24(272C).

**645—202.25(272C) Peer review committees.** Rescinded IAB 6/30/99, effective 8/4/99.

**645—202.26(272C) Conduct of persons attending meetings.** Rescinded IAB 6/30/99, effective 8/4/99.

These rules are intended to implement Iowa Code chapters 147 and 272C.

[Filed 10/25/91, Notice 9/4/91—published 11/13/91, effective 12/18/91]
[Filed 4/14/92, Notice 2/5/92—published 5/13/92, effective 6/17/92]
[Filed 7/17/92, Notice 5/13/92—published 8/5/92, effective 9/9/92]
[Filed 10/1/92, Notice 6/24/92—published 10/28/92, effective 12/2/92]
[Filed 6/4/93, Notice 2/17/93—published 6/23/93, effective 7/28/93]
[Filed 8/13/93, Notice 6/23/93—published 9/1/93, effective 10/6/93]
[Filed 1/27/94, Notice 12/8/93—published 2/16/94, effective 3/23/94]
[Filed 7/15/94, Notice 4/13/94—published 8/3/94, effective 9/7/94]
[Filed 2/22/96, Notice 12/20/95—published 3/13/96, effective 4/17/96]
[Filed emergency 10/23/96, after Notice 7/17/96—published 10/23/96, effective 10/4/96]
[Filed 8/8/97, Notice 5/21/97—published 8/27/97, effective 10/1/97]
[Filed 3/24/98, Notice 2/11/98—published 4/22/98, effective 5/27/98]
[Filed emergency 5/15/98—published 6/3/98, effective 5/27/98]
[Filed 6/11/99, Notice 4/7/99—published 6/30/99, effective 8/4/99]

## CHAPTER 203
Reserved

## CHAPTER 204
## IMPAIRED PRACTITIONER REVIEW COMMITTEE
Rescinded IAB 6/30/99, effective 8/4/99

## CHAPTER 205
## CHILD SUPPORT NONCOMPLIANCE
Rescinded IAB 6/30/99, effective 8/4/99

## CHAPTER 206
## PETITIONS FOR RULE MAKING
Rescinded IAB 6/30/99, effective 8/4/99

## CHAPTER 207
## DECLARATORY RULINGS
Rescinded IAB 6/30/99, effective 8/4/99

## CHAPTER 208
## AGENCY PROCEDURE FOR RULE MAKING
Rescinded IAB 6/30/99, effective 8/4/99

## CHAPTER 209
## PUBLIC RECORDS AND FAIR INFORMATION PRACTICES
Rescinded IAB 6/30/99, effective 8/4/99

## CHAPTERS 210 to 219
Reserved

**645—301.7(272C) Hearings.** In the event of denial, in whole or part, of credit for a continuing education activity, the licensee shall have the right to request a hearing. The request must be sent within 20 days after receipt of the notification of denial. The hearing shall be held within 90 days after receipt of the request for hearing. The hearing shall be conducted by the board or a qualified hearing officer designated by the board. If the hearing is conducted by a hearing officer, the hearing officer shall submit a transcript or tape recording of the hearing including exhibits to the board after the hearing with the proposed decision of the hearing officer. The final decision of the hearing shall be rendered by the board.

**645—301.8(272C) Exemptions for inactive practitioners.** Rescinded IAB 6/16/99, effective 7/21/99.

**645—301.9(272C) Reinstatement of inactive practitioners.** Rescinded IAB 6/16/99, effective 7/21/99.

**645—301.10(272C) Reinstatement of lapsed license.** Rescinded IAB 6/16/99, effective 7/21/99.

**645—301.11** to **301.99** Reserved.

**645—301.100(272C) Definitions.** For the purpose of these rules, the following definitions shall apply:

**301.100(1)** *"Board"* means the board of speech pathology and audiology examiners.

**301.100(2)** *"Licensee"* means any person licensed to practice as a speech pathologist or audiologist or both in the state of Iowa.

**645—301.101(272C) Complaint.** Rescinded IAB 6/30/99, effective 8/4/99.

**645—301.102(272C) Report of malpractice claims or actions.** Rescinded IAB 6/30/99, effective 8/4/99.

**645—301.103(272C) Investigations.** Rescinded IAB 6/30/99, effective 8/4/99.

**645—301.104(272C) Alternative procedure.** Rescinded IAB 6/30/99, effective 8/4/99.

**645—301.105(272C) License denial.** Rescinded IAB 6/30/99, effective 8/4/99.

**645—301.106(272C) Notice of hearing.** Rescinded IAB 6/30/99, effective 8/4/99.

**645—301.107(272C) Hearings open to the public.** Rescinded IAB 6/30/99, effective 8/4/99.

**645—301.108(272C) Hearings.** Rescinded IAB 6/30/99, effective 8/4/99.

**645—301.109(272C) Appeal.** Rescinded IAB 6/30/99, effective 8/4/99.

**645—301.110(272C) Informal settlement.** Rescinded IAB 6/30/99, effective 8/4/99.

**645—301.111(272C) Publication of decisions.** Rescinded IAB 6/30/99, effective 8/4/99.

**645—301.112(272C) Grounds for discipline.**

**301.112(1)** The board may impose any of the disciplinary sanctions set forth in 645—13.1(272C), including civil penalties in an amount not to exceed $1000, when the board determines that a licensee is guilty of any of the following acts or offenses:

*a.* Fraud in procuring a license.

*b.* Professional incompetency.

*c.* Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of a profession or engaging in unethical conduct or practice harmful or detrimental to the public. Proof of actual injury need not be established.

*d.* Habitual intoxication or addiction to the use of drugs.

*e.* Conviction of a felony related to the profession or occupation of the licensee or the conviction of any felony that would affect the licensee's ability to practice within a profession. A copy of the record of conviction or plea of guilty shall be conclusive evidence.

*f.* Fraud in representations as to skill or ability.

*g.* Use of untruthful or improbable statements in advertisements.

*h.* Willful or repeated violations of the provisions of Iowa Code chapter 147.

**301.112(2)** Violation of the rules promulgated by the board.

**301.112(3)** Violation of the following code of ethics:

*a.* Claims of expected clinical results shall be based upon sound evidence and shall accurately convey the probability and degree of expected improvement.

*b.* Persons served professionally or the files of such persons will be used for teaching or research purposes only after obtaining informed consent from those persons or from the legal guardians of such persons.

*c.* Information of a personal or professional nature obtained from persons served professionally will be released only to individuals authorized by the persons receiving professional service or to those individuals to whom release is required by law.

*d.* Relationships between professionals and between a professional and a client shall be based on high personal regard and mutual respect without concern for race, religious preference, sex, or age.

*e.* Referral of clients for additional services or evaluation and recommendation of sources for purchasing appliances shall be without any consideration for financial or material gain to the licensee making the referral or recommendation for purchase.

*f.* Licensees who dispense products to persons served professionally shall observe the following standards:

1. Products associated with professional practice must be dispensed to the person served as a part of a program of comprehensive habilitative care.

2. Fees established for professional services must be independent of whether a product is dispensed.

3. Persons served must be provided freedom of choice for the source of services and products.

4. Price information about professional services rendered and products dispensed must be disclosed by providing to or posting for persons served a complete schedule of fees and charges in advance of rendering services, which schedule differentiates between fees for professional services and charges for products dispensed.

*g.* Failure to comply with Food and Drug Administration rules 21 CFR §801.420 (April 1, 1981) "Hearing aid devices; professional and patient labeling" and 21 CFR §801.421 (April 1, 1981) "Hearing aid devices, conditions for sale."

**301.112(4)** Personal disqualifications:

*a.* Mental or physical inability reasonably related to and adversely affecting the licensee's ability to practice in a safe and competent manner.

*b.* Involuntary commitment for treatment of mental illness, drug addiction or alcoholism.

**301.112(5)** Practicing the profession while the license is suspended.

**301.112(6)** Suspension or revocation of license by another state.

**301.112(7)** Negligence by the licensee in the practice of the profession, which is a failure to exercise due care including negligent delegation to or supervision of employees or other individuals, whether or not injury results; or any conduct, practice or conditions which impair the ability to safely and skillfully practice the profession.

**301.112(8)** Prohibited acts consisting of the following:

*a.* Permitting an unlicensed employee or person under the licensee's control to perform activities requiring a license.

*b.* Permitting another person to use the licensee's license for any purpose.

*c.* Practice outside the scope of a license.

*d.* Verbally or physically abusing clients.

**301.112(9)** Unethical business practices, consisting of any of the following:

*a.* False or misleading advertising.

*b.* Betrayal of a professional confidence.

*c.* Falsifying clients' records.

*d.* Billing for services which were not rendered, or charging fees which are inconsistent with any prior agreements reached with the clients.

**301.112(10)** Failure to report a change of name or address within 30 days after it occurs.

**301.112(11)** Submission of a false report of continuing education or failure to submit the annual report of continuing education.

**301.112(12)** Failure to notify the board within 30 days after occurrence of any judgment or settlement of a malpractice claim or action.

**301.112(13)** Failure to comply with a subpoena issued by the board.

This rule is intended to implement Iowa Code sections 272C.3 and 272C.4.

**645—301.113(272C) Peer review committees.** Rescinded IAB 6/30/99, effective 8/4/99.

These rules are intended to implement Iowa Code sections 272C.2, 272C.4, 272C.5, 272C.6, 17A.10 and 17A.17.

[Filed 6/23/78, Notice 12/28/77—published 7/12/78, effective 8/16/78]
[Filed 3/20/79, Notice 10/18/78—published 4/18/79, effective 6/1/79]
[Filed emergency 5/23/79—published 6/13/79, effective 7/1/79]
[Filed 6/6/79, Notice 4/18/79—published 6/27/79, effective 8/1/79]
[Filed 8/28/81, Notice 3/4/81—published 9/16/81, effective 10/21/81]
[Filed 12/16/81, Notice 9/16/81—published 1/6/82, effective 2/12/82]
[Filed 10/22/82, Notice 8/18/82—published 11/10/82, effective 12/17/82]
[Filed emergency 11/15/84—published 12/5/84, effective 11/15/84]
[Filed 11/16/84, Notice 10/10/84—published 12/5/84, effective 1/9/85]
[Filed 1/10/86, Notice 7/17/85—published 1/29/86, effective 3/6/86]
[Filed 12/10/86, Notice 7/16/86—published 12/31/86, effective 2/4/87]
[Filed emergency 8/21/87—published 9/9/87, effective 9/1/87]
[Filed 6/9/89, Notice 2/8/89—published 6/28/89, effective 8/2/89]
[Filed 7/26/90, Notice 6/13/90—published 8/22/90, effective 9/26/90]
[Filed 4/12/91, Notice 1/9/91—published 5/1/91, effective 6/5/91]
[Filed 8/1/91, Notice 5/1/91—published 8/21/91, effective 9/25/91]
[Filed 11/22/91, Notice 8/21/91—published 12/11/91, effective 1/15/92]
[Filed 8/14/92, Notice 4/15/92—published 9/2/92, effective 10/7/92]
[Filed 2/23/94, Notice 12/8/93—published 3/16/94, effective 4/22/94]
[Filed 10/7/94, Notice 8/3/94—published 10/26/94, effective 11/30/94]
[Filed 5/28/99, Notice 3/10/99—published 6/16/99, effective 7/21/99]
[Filed 6/11/99, Notice 4/7/99—published 6/30/99, effective 8/4/99]

# CHAPTER 302
# SPEECH PATHOLOGY AND AUDIOLOGY ASSISTANTS
[Prior to 8/24/88, see Health Department[470] Ch 157]

**645—302.1(147) Use of assistants.** A licensee shall in the delivery of professional services utilize assistants only to the extent provided in these rules.

**645—302.2(147) Definition.** An assistant is a person who works under the supervision of an Iowa-licensed speech pathologist or audiologist, does not meet the requirements to be licensed as a speech pathologist or audiologist, and meets the minimum requirements set forth in these rules.

**302.2(1)** Speech pathology assistant I. Works with an individual for whom significant improvement is expected within a reasonable amount of time.

**302.2(2)** Speech pathology assistant II. Works with an individual for whom maintenance of present level of communication is the goal; or for whom, based on the history and diagnosis, only slow improvement is expected.

**302.2(3)** Audiology assistant I. Is more broadly trained and may be given a variety of duties depending upon the individual's training.

**302.2(4)** Audiology assistant II. Is trained specifically for a single task for screening.

**645—302.3(147) Minimum requirements.** A speech pathology assistant I or II or audiology assistant I must satisfy the following minimum requirements:

**302.3(1)** Reach the age of majority.

**302.3(2)** A high school education, or its equivalency.

**302.3(3)** Completion of a three semester-hour (or four quarter-hour) course in introductory speech and language pathology for speech pathology assistants or in audiology for audiology assistants from an accredited educational institution and 15 hours of instruction in the specific tasks which the assistant will be performing; or

**302.3(4)** A minimum training period comprised of 75 clock hours on instruction and practicum experience.

**302.3(5)** An audiology assistant II must satisfy the following requirements:

1. Reach the age of majority.
2. A high school education, or its equivalency.
3. A minimum of 15 clock hours of instruction and practicum experience in the specific task which the assistant will be performing.

**645—302.4(147) Utilization.** Utilization of a speech pathology or audiology assistant requires submission to the board of speech pathology and audiology examiners, within 30 days of the date of utilization of such assistant, by the licensee desiring to utilize that assistant, of the following information:

**302.4(1)** Documentation that the assistant meets minimum requirements.

**302.4(2)** A written plan of the activities and supervision must be provided to the board by the licensee supervising the assistant. This supervision must include direct on-site observation for a minimum of 20 percent of the assistant's direct patient care for level I speech pathology and level I audiology assistants and 10 percent for level II speech pathology assistants. Level II audiology assistants must be supervised 10 percent of the time. At least half of that time must be direct on-site observation with the other portion provided as time interpreting results.

**302.4(3)** A listing of the facilities where the assistant will be utilized.

**302.4(4)** A statement, signed by the licensee and the assistant, that the rules pertaining to assistants have been read by both.

**645—302.5(147) Maximum number of assistants.** A licensee may not utilize more than three assistants unless a plan of supervision is filed and approved by the board.

**645—302.6(147) Supervisor responsibilities.** A licensee who utilizes an assistant shall have the following responsibilities:

**302.6(1)** To be legally responsible for the actions of the assistant in that assistant's performance of assigned duties with a client.

**302.6(2)** To make all professional decisions relating to the management of a client.

**302.6(3)** To ensure that the assistant shall be assigned only to those duties and responsibilities for which the assistant has been specifically trained and is qualified to perform.

**302.6(4)** To ensure compliance of the assistant(s) under supervision with the provisions of these rules by providing periodic direct observation and supervision of the activities of the assistant.

**302.6(5)** To report to the board of speech pathology and audiology examiners any changes in the utilization or duties of assistants within 30 days of the date of the changes.

**645—302.7(147) Noncompliance.** Failure of the licensee to comply with these rules may result in the suspension or revocation of the licensee's license.

These rules are intended to implement Iowa Code section 147.152(4).

[Filed 7/19/79, Notice 6/13/79—published 8/8/79, effective 9/12/79]
[Filed 8/28/81, Notice 3/4/81—published 9/16/81, effective 10/21/81]
[Filed 6/18/86, Notice 2/12/86—published 7/16/86, effective 8/20/86]
[Filed 7/29/88, Notice 3/23/88—published 8/24/88, effective 9/28/88]
[Filed 1/12/89, Notice 9/7/88—published 2/8/89, effective 3/15/89]
[Filed 5/24/90, Notice 3/21/90—published 6/13/90, effective 7/18/90]
[Filed 1/24/97, Notice 10/23/96—published 2/12/97, effective 3/19/97]

## CHAPTER 303
## AGENCY PROCEDURE FOR RULE MAKING
Rescinded IAB 6/30/99, effective 8/4/99

## CHAPTER 304
## PETITIONS FOR RULE MAKING
Rescinded IAB 6/30/99, effective 8/4/99

## CHAPTER 305
## DECLARATORY RULINGS
Rescinded IAB 6/30/99, effective 8/4/99

## CHAPTER 306
## CHILD SUPPORT NONCOMPLIANCE
Rescinded IAB 6/30/99, effective 8/4/99

## CHAPTER 307
## IMPAIRED PRACTITIONER REVIEW COMMITTEE
Rescinded IAB 6/30/99, effective 8/4/99

## CHAPTER 308
Reserved

## CHAPTER 309
## PUBLIC RECORDS AND FAIR INFORMATION PRACTICES
Rescinded IAB 6/30/99, effective 8/4/99

## CHAPTERS 310 to 324
Reserved

21.800(422B) Local sales and services tax elections
21.801(422B) Form of ballot for local option tax elections
21.802(422B) Local vehicle tax elections
21.803(77GA,HF2282) Local sales and services tax elections for school infrastructure projects
21.804 to 21.809 Reserved
21.810(34A) Referendum on enhanced 911 emergency telephone communication system funding
21.811 to 21.819 Reserved
21.820(99F) Excursion boat gambling elections
21.821 to 21.829 Reserved
21.830(357E) Benefited recreational lake district elections

## CHAPTER 22
## ALTERNATIVE VOTING SYSTEMS

TESTING AND EXAMINATION OF VOTING EQUIPMENT
22.1(52) Definitions for certification of voting equipment
22.2(52) Voting system standards
22.3(52) Examiners
22.4(52) Fees and expenses paid to the examiners
22.5(52) Examination of voting equipment—application
22.6(52) Review of application by examiners
22.7(52) Consultant
22.8(52) Contact other users
22.9(52) Testing the equipment
22.10(52) Test primary election for three political parties
22.11(52) Test general election
22.12(52) Report
22.13(52) Notification
22.14(52) Denial of certification
22.15(52) Application for reconsideration
22.16(52) Appeal
22.17(52) Reexamination following changes in equipment
22.18(52) Rescinding certification
22.19(52) Examination of voting booths—application
22.20(52) Review of application by examiners
22.21(52) Contact other users
22.22(52) Criteria for approval
22.23(52) Report
22.24(52) Notification
22.25(52) Denial of certification
22.26(52) Application for reconsideration
22.27(52) Appeal
22.28(52) Reexamination following changes in voting booth
22.29(52) Rescinding certification
22.30 to 22.39 Reserved
22.40(52) Public testing of voting machines
22.41(52) Public testing of optical scan systems
22.42 to 22.49 Reserved
ELECTRONIC VOTING SYSTEMS
22.50(52) Electronic voting systems—use for absentee voting
22.51(52) Instructions
22.52(52) Counting center tabulation provisions
22.53 to 22.99 Reserved
SPECIAL PAPER BALLOT SYSTEMS
22.100(52) Special paper ballots, portable vote tallying systems, and central count systems
22.101(52) Definitions
22.102(52) Special paper ballots
22.103 to 22.199 Reserved
PRECINCT COUNT SYSTEMS
22.200(52) Security
22.201(52) Programming the tabulating devices for precinct count systems
22.202 to 22.220 Reserved
22.221(52) Sample ballots and instructions to voters
22.222 to 22.230 Reserved
22.231(52) Emergency procedures
22.232(52) Manner of voting
22.233 to 22.239 Reserved
22.240(52) Results
22.241(52) Electronic transmission of election results
22.242 to 22.249 Reserved
22.250(52) Absentee voting
22.251(52) Absentee voting instructions
22.252 to 22.259 Reserved
22.260(52) Specific precinct count systems
22.261(52) AIS 100—system messages and solution codes
22.262 to 22.341 Reserved
CENTRAL COUNT SYSTEMS
22.342(52) Tally list for central count precincts

22.343 to 22.430 Reserved

VOTING MACHINES

22.431(52) Temporary use of paper ballots in voting machine precincts
22.432 to 22.460 Reserved
22.461(52) MicroVote Absentee Voting System
22.462(52) Fidlar & Chambers' Absentee Voting System

CHAPTER 23
VOTER REGISTRATION IN STATE AGENCIES

23.1(75GA,ch1169) Definitions
23.2(75GA,ch1169) Registration forms
23.3(75GA,ch1169) Declination forms
23.4(75GA,ch1169) Electronic declination records
23.5(75GA,ch1169) Retention and storage of declination forms
23.6(75GA,ch1169) Distribution of voter registration forms
23.7(75GA,ch1169) Applications, recertifications, renewals and changes of address received from applicant representatives
23.8(75GA,ch1169) Recertification and renewal applications
23.9(75GA,ch1169) Change of address notices
23.10(75GA,ch1169) Ineligible applicants

CHAPTER 24
UNOFFICIAL CANVASS OF VOTES

24.1(47) Unofficial canvass
24.2(47) Duties of the county commissioner of elections
24.3(47) Duties of the state commissioner of elections

CHAPTERS 25 to 29
Reserved

DIVISION III
UNIFORM COMMERCIAL CODE

CHAPTER 30
UNIFORM COMMERCIAL CODE

30.1(554) Financing statement forms
30.2(554) Forms for financing statement changes
30.3(554) Forms for requests for information
30.4(554) Request for copies
30.5(554) Payment of fees
30.6(570A) Forms for verified lien statements and request for information (VLS-1)
30.7(570A) Form and fees for request for information (VLS-1)

CHAPTERS 31 to 39
Reserved

DIVISION IV
CORPORATIONS

CHAPTER 40
CORPORATIONS

40.1(490,499,504A) Filing of documents
40.2(490,499,504A) Reinstatement of corporations
40.3(487,490,504A) Names distinguishable upon corporate records
40.4(491,496A,499, 504A,548) Payment and refund of fees
40.5(491,496A,499, 504A,548) Document to county recorder
40.6(548) Registration and protection of marks

CHAPTER 41
Reserved

CHAPTER 42
ATHLETE AGENT REGISTRATION

42.1(9A,17A) Fees
42.2(9A,17A) Surety bond
42.3(9A,17A) Agent contract
42.4(9A,17A) General information

CHAPTER 43
NOTARIAL ACTS

43.1(9E) Certificate of notarial acts
43.2(9E) Short forms
43.3(9E) Notarial acts in other jurisdictions of the United States
43.4(9E) Notarial acts under federal authority
43.5(9E) Foreign notarial acts

CHAPTER 44
REGISTRATION OF WASTE TIRE HAULERS

44.1(9B) Registration requirement
44.2(9B) Registration form
44.3(9B) Registration fee
44.4(9B) Bond form
44.5(9B) Marking of equipment

# CHAPTER 22
# ALTERNATIVE VOTING SYSTEMS
[Prior to 7/13/88, see Secretary of State[750] Ch 10]

## TESTING AND EXAMINATION OF VOTING EQUIPMENT

**721—22.1(52) Definitions for certification of voting equipment.**

*"Accredited independent test authority"* means a person or agency that is formally recognized by the National Association of State Election Directors as competent to design and perform qualification tests for voting system hardware and software.

*"Certification"* means formal approval of voting machines or electronic voting equipment for use in Iowa pursuant to Iowa Code sections 52.5, 52.7 and 52.26.

*"Examiners"* means the board of examiners for voting machines and electronic voting systems described in Iowa Code section 52.4.

*"Qualification test"* means the examination and testing of an electronic voting system by an independent test authority using Performance and Test Standards for Punchcard, Marksense, and Direct Recording Electronic Systems, as adopted by the Federal Election Commission January 25, 1990, and as amended April 1990, to determine if the system complies with those standards.

*"Vendor"* means a person or representative of a person owning or being interested in a voting machine or electronic voting system seeking certification of the equipment for use in elections in Iowa.

*"Voting booth"* means an enclosure designed to be used by a voter while marking a paper ballot, special paper ballot or ballot card.

*"Voting equipment"* means voting machines and electronic voting systems which are required by Iowa Code sections 52.5, 52.7, and 52.26 to be approved for use by the examiners.

**721—22.2(52) Voting system standards.** All electronic voting systems and machines approved for use by the Board of Examiners after December 31, 1997, shall meet Performance and Test Standards for Punchcard, Marksense, and Direct Recording Electronic Systems, as adopted by the Federal Election Commission January 25, 1990, and as amended April 1990. The report of an accredited independent test authority certifying that the system is in compliance with these standards shall be submitted with the application for examination.

This rule is intended to implement Iowa Code section 52.5.

**721—22.3(52) Examiners.** The examiners annually shall elect a chairperson. All three examiners must be present for any formal action. Approval by two of the three examiners is required to approve any action to be taken by the examiners.

**22.3(1)** Notice of the time and place of any meeting by the board of examiners must be published pursuant to Iowa Code section 21.4.

**22.3(2)** Meetings of the examiners are open to the public, except that closed meetings may be held as permitted by Iowa Code section 21.5.

**22.3(3)** Correspondence and materials required to be filed with the Board of Examiners shall be addressed to the examiners in care of the Elections Division, Office of the Secretary of State, Second Floor, Hoover Building, Des Moines, Iowa 50319.

**721—22.4(52) Fees and expenses paid to the examiners.**

**22.4(1)** The examiners shall be reimbursed for travel to and from the meeting place at the rate specified in Iowa Code section 70A.9. The examiners shall also be reimbursed for actual expenses for meals and lodging, if necessary.

*a.* If the meeting was called for the purpose of examining, reexamining, testing, or discussing the certification of voting equipment offered by a vendor, the examiners' expenses shall be paid by the vendor within seven days following the completion of the examination and testing of the voting equipment.

*b.* If the meeting was called for the purpose of advising the secretary of state regarding administrative rules for the examiners, or to hear complaints or requests for decertification of voting equipment, or any other business of interest to the examiners, the expenses shall be paid by the secretary of state.

**22.4(2)** The vendor shall pay the examiners the amount of compensation specified in Iowa Code section 52.6 at the beginning of each meeting for which compensation is required to be provided to the examiners. The fee shall be paid as follows:

*a.* For each meeting or series of meetings held for the purpose of certifying a voting machine, electronic voting system or voting booth.

*b.* For each meeting or series of meetings for reconsideration of a voting machine, electronic voting system or voting booth after denial of certification.

*c.* If the examiners schedule examinations of voting booths offered by more than one vendor at a single meeting, the fee shall be divided equally among the vendors.

*d.* The examiners shall waive the examination fee if a voting booth is submitted for examination by a county commissioner of elections pursuant to rule 22.19(52).

This rule is intended to implement Iowa Code sections 17A.19, 49.25(3), 52.5, 52.6, and 52.26.

**721—22.5(52) Examination of voting equipment—application.** Any vendor who wishes to apply for certification of voting equipment for use in the state of Iowa shall apply to the secretary of state for an appointment with the examiners. The application shall include five copies of each of the following:

**22.5(1)** History of the equipment to be examined. This history shall include a complete description of the equipment to be examined, descriptions of any previous models of the equipment, the date the system to be examined went into production, and a complete list of jurisdictions which have used the equipment. The user list shall include jurisdictions which used the equipment experimentally without purchasing it, jurisdictions which purchased earlier versions of the equipment to be examined, and jurisdictions which purchased the current version of the equipment to be examined.

**22.5(2)** Copies of all manuals developed for use with the system including, but not limited to, technical manuals for repair and maintenance of the equipment, operations manuals for election officials, printer's manuals for ballot production, and any other written documents prepared by the vendor that describe the operation, use, and maintenance of the machine.

**22.5(3)** Report of an accredited independent test authority certifying that the system is in compliance with the Federal Election Commission's Performance and Test Standards for Punchcard, Marksense, and Direct Recording Electronic Systems. Copies of these reports are confidential records as defined by Iowa Code section 22.7 and Iowa Code chapter 550. Independent test authority reports shall be available to the secretary of state, deputy secretary of state, director of elections, and any other person designated by the secretary of state to have a bona fide need to review the report. No other person shall have access to the reports and no copies shall be made. All independent test authority reports shall be marked "CONFIDENTIAL" and shall also be accompanied by a list of those persons who are authorized to examine the report. The reports shall be kept in a locked cabinet.

**22.5(4)** Copies of the reports of any test authority who has examined the equipment in conjunction with certification requirements of other states.

**721—22.28(52) Reexamination following changes in voting booth.** The vendor shall notify the examiners of any changes in the voting booth and shall provide to the examiners the following information when requesting recertification:

**22.28(1)** Description of the changes made.

**22.28(2)** Reports of test results conducted for other states following the modifications to the voting booth.

**22.28(3)** Copies of manuals, instructions, advertisements and other documents required to be included with the application that have been modified since the original application was submitted.

**22.28(4)** A new request for examination as required by subrule 22.19(8).

**721—22.29(52) Rescinding certification.**

**22.29(1)** *Grounds for rescinding certification.* Certification may be rescinded if it is found that:

*a.* The voting booth does not meet the criteria for approval established in rule 22.22(52).

*b.* Material changes have been made in the voting booth that do not comply with criteria for approval.

*c.* A voting booth which has been certified for use has not been purchased by any county in Iowa, or is no longer used by any county in Iowa, is no longer available for purchase from the manufacturer. The examiners may rescind certification of such voting booths without a complaint or contested case proceedings.

**22.29(2)** *Procedure for rescinding certification.* Complaints regarding voting booths certified for use in Iowa should be filed with the examiners. The examiners shall review all complaints and may initiate a contested case to rescind approval on any ground listed above. The contested case may be conducted before the examiners or before an administrative law judge. A contested case for rescinding approval shall be conducted, to the extent applicable, in accordance with the procedural rules specified in 481—Chapter 10, Iowa Administrative Code.

**22.29(3)** *Suspension of certification.* If the administrative law judge hearing the contested case, or the examiners, as the case may be, find that the voting booth can be modified to correct the deficiency, certification may be suspended until the deficiency is corrected. If it is found that the deficiency is limited to a specific flaw not present in all models of the voting booth, the suspension may be limited to the deficient models. While certification is suspended, the voting booth may not be used for any election.

After the required modifications have been made, the vendor may apply for reexamination of the voting booth following the procedure described in rule 22.28(52).

**22.29(4)** *Further use prohibited.* If certification of voting booth is rescinded without qualification, no further use shall be permitted by any county.

Rules 22.19(52) to 22.29(52) are intended to implement Iowa Code sections 17A.19, 49.25(3), 52.5, 52.6, and 52.26.

**721—22.30** to **22.39** Reserved.

**721—22.40(52) Public testing of voting machines.** All voting machines shall be tested publicly before use at any election, as required by Iowa Code section 52.9.

**22.40(1)** The machine shall be inspected to determine that the machine has been prepared properly for the election at which it will be used. The following information shall be verified:

*a.* Each machine has the correct ballot labels or strips for the election and the precinct in which it will be used.

*b.* All ballot strips or labels are aligned with the correct levers or buttons.

*c.* All counters are set at zero before the beginning of the test.

**22.40(2)** The machine shall be tested to determine the following:

*a.* The lever or button to be used to cast votes for each candidate operates correctly.

*b.* The voter cannot cast votes for more candidates for any office than the number to be elected.

*c.* The voter may change any vote cast (except a write-in vote) before pressing the button or lever to record the voter's ballot.

*d.* All unassigned buttons or levers are locked out or will not operate to cast votes.

*e.* The machine records all votes cast and no others. A written tally of the test votes shall be prepared before the test. The results of the test voting shall be recorded. The results of the machine tabulation shall be printed and compared with the test plan. If there are differences, the cause of the discrepancy shall be determined. If the cause of the discrepancy cannot be determined and corrected, the program or equipment shall not be used at the election. Both the test plan and the results shall be kept as part of the record of the election, as required by Iowa Code section 50.19.

*f.* The voter may cast as many write-in votes for each office on the ballot as there are positions to be filled. The write-in mechanism works correctly.

*g.* For primary elections: The voter may cast votes for the candidates of only one political party.

*h.* For general elections: The straight party mechanism casts one vote for each candidate of the designated political party and casts no other votes. The voter may override a straight party vote by removing a vote cast for any candidate and then may vote for another candidate.

**22.40(3)** Following the test the machine shall be inspected to determine that:

*a.* All counters have been returned to zero.

*b.* All required locks or seals are in place.

*c.* The machine is ready for operation at the polls.

This rule is intended to implement Iowa Code chapter 52.

**721—22.41(52) Public testing of optical scan systems.** All automatic tabulating equipment shall be tested before use at any election, as required by Iowa Code sections 52.35 and 52.38.

**22.41(1)** The equipment shall be inspected to determine whether it has been prepared properly for the election at which it will be used. The following information shall be verified:

*a.* The correct program cartridge is in place for the election and the precinct or precincts in which it will be used.

*b.* The appropriate ballots are available for the test of each automatic tabulating device to be used in the election.

*c.* All counters are set at zero before beginning the test.

**22.41(2)** Each automatic tabulating device shall be tested to determine the following:

*a.* The device and its programs will accurately tabulate votes for each candidate and question on the ballot.

*b.* Votes cast for more candidates for any office than the number to be elected will result in the rejection of all votes cast for that office on that ballot. Votes properly cast for other offices on the same ballot shall be counted.

*c.* The tabulating equipment records all votes cast and no others. A written tally of the test votes shall be prepared before the test. The results of the test voting shall be recorded. The results of the machine tabulation shall be printed and compared with the test plan. If there are differences, the cause of the discrepancy shall be determined. If the cause of the discrepancy cannot be determined and corrected, the program or equipment shall not be used at the election. Both the test plan and the results shall be kept as part of the record of the election, as required by Iowa Code section 50.19.

*d.* The voter may cast as many write-in votes for each office on the ballot as there are positions to be filled. The write-in votes are reported correctly.

*e.* For primary elections: The tabulating equipment accurately records votes cast for all political parties.

*f.* For general elections: The straight party votes are recorded as one vote for each candidate of the designated political party, and no other votes are recorded. The voter may override a straight party vote by voting for any candidate not associated with that political party. For offices to which more than one person will be elected, if a voter has chosen to override a straight party vote, only the candidates whose names are marked shall receive votes.

**22.41(3)** Following the test, the tabulating equipment shall be inspected to determine that:

*a.* All counters have been returned to zero.

*b.* All required locks or seals are in place.

*c.* The automatic tabulating equipment is ready for operation at the election.

**22.41(4)** Test deck submitted by observers. Any person who is present at the public test may mark ballots to be used to test the voting equipment. The following conditions apply:

*a.* Not more than ten ballots may be submitted by any person.

*b.* Only official ballots provided by the commissioner at the test shall be used. The commissioner may provide sample ballots or photocopies of sample ballots to anyone upon request.

*c.* The preparer shall provide a written tally of the test deck.

*d.* The results of the machine tabulation shall be printed and compared with the preparer's tally. If there are differences, the cause of the discrepancy shall be determined. If the cause of the discrepancy cannot be determined and corrected, the program or equipment shall not be used at the election.

*e.* The test decks, the preparer's tally, and the printed results of the test shall be kept with the records of the election and preserved as required by Iowa Code section 50.19.

This rule is intended to implement Iowa Code chapter 52.

**721—22.42 to 22.49** Reserved.

ELECTRONIC VOTING SYSTEMS

**721—22.50(52) Electronic voting systems—use for absentee voting.** As an alternative to paper absentee ballots, the board of supervisors of any county may authorize, purchase and order the use of an electronic voting system for absentee voting, regardless of the method used for voting at the regular precinct polling places within the county.

**22.50(1)** Ballot cards for use with electronic voting systems. The ballot cards used for absentee voting in conjunction with an electronic voting system shall be prepared in accordance with the provisions set out in Iowa Code section 43.26, for primary elections, Iowa Code section 49.42, for general elections, Iowa Code section 49.45, for constitutional amendments or other public measures, and in accordance with any relevant provisions of any other statutes which specify the form of ballots for other types of elections. The ballot stub and the ballot card shall not contain any common identifying mark, number or symbol which would permit them to be matched after having been detached by the special precinct election board.

**22.50(2)** The use of electronic voting systems using ballot labels and ballot cards as defined in Iowa Code section 52.1, subsection 2, paragraphs *"e"* and *"f,"* shall be in accordance with the procedures set out in this subrule. To each qualified elector who applies for an absentee ballot as provided in Iowa Code section 53.2, the commissioner shall provide the following:

*a.* A ballot card mounted on a backing of styrofoam or other similar material to permit convenient and efficient punching of holes in the ballot card.

*b.* A disposable punching device for use in punching the holes in the ballot card.

*c.* A printed paper or sample ballot showing the offices, candidates and the questions to be voted upon and designating the number to be punched when voting for each candidate or question.

*d.* Absentee voting instructions in substantially the form set out in 721—subrule 10.2(1).

*e.* A ballot card envelope of sufficient size and construction that when the ballot card is inserted in it all portions indicating voting marks are hidden from view. Instructions shall be printed on the ballot card envelope and shall include the following:

1. On the outside flap:

   After voting, insert ballot card with stub exposed into envelope pocket and close flap.

   To cast write-in ballot, see inside.

2. Inside the envelope:

   Write-in ballot. To vote for a person whose name is <u>not</u> on the ballot, write in <u>BOTH</u> the title of the office and the candidate's name on the lines below.

| <u>OFFICE</u> | <u>CANDIDATE NAME</u> |
|---|---|
| | |
| | |
| | |

(Additional lines)

Write-in ballots shall be printed inside the ballot envelope so that write-in votes are hidden from view when the flap is closed.

*f.* An envelope containing an affidavit to be completed by the voter. The affidavit shall be in the same form as Form 3-B (Rev. 87), Absent or Disabled Voter's Affidavit, as prescribed by 721—Chapter 21, Iowa Administrative Code.

*g.* An envelope designated as "Return Carrier Envelope" for returning the voted ballot to the commissioner.

VOTING MACHINES

**721—22.431(52) Temporary use of paper ballots in voting machine precincts.** The county commissioner of elections shall furnish to each precinct where voting machines are to be used for any election a supply of paper ballots.

**22.431(1)** Conditions under which paper ballots shall be used. In any precinct in which voting machines are designated as the method of voting for any election, a paper ballot shall be furnished to any person offering to vote, in addition to those provisions set out in Iowa Code sections 49.81 and 49.90, if:

*a.* A power failure prevents use of the voting machines.

*b.* A malfunction occurs which prevents the use of one or more voting machines.

*c.* It is found that any voting machine has been prepared with all or part of a ballot strip meant for another precinct.

*d.* It is found that the ballot strips for any voting machine have been misprinted.

*e.* Any other condition exists due to a fault of the voting machine or machines which prevents the person or persons offering to vote at that precinct from casting their votes.

**22.431(2)** The ballots to be furnished by the county commissioner of elections shall be the same as the ballots used in carrying out the provisions of Iowa Code sections 49.81 and 49.90, and voting shall be in accordance with the provisions of the Code relating to paper ballots.

**22.431(3)** In the event any paper ballots are cast as provided in this rule, the chairperson and one other precinct election official, one of whom shall represent each of the political parties, shall place the folded, voted ballots in a closed container to be kept in a secure manner in a secure place.

**22.431(4)** Counting the ballots.

*a.* If, during the time the polls are open, the problem is corrected and the voting machine or machines are found to be usable, the two precinct election officials responsible for the security of the paper ballots voted under these rules may open the closed container and record the votes which have been cast on the paper ballots on the voting machine or machines.

*b.* In the event that it has not been possible to record the paper ballots on the machines by the time the polls are closed, the precinct election officials shall manually count the paper ballots in the manner provided in Iowa Code chapter 50.

**721—22.432** to **22.460** Reserved.

**721—22.461(52) MicroVote Absentee Voting System.** This system uses a three-piece ballot including a ballot card with a write-in section on the back, ballot guide, and secrecy envelope. The following rules for the use of the MicroVote Absentee Voting System are prescribed.

**22.461(1)** The ballot card is used by the voter to indicate the voter's choices. The ballot card has numbered voting targets printed on card stock and is marked with a pencil. Also included on the ballot card is a box marked "For Official Use Only." This box is used for coding to indicate the precinct and rotation of the ballot, if any. Before being sent to the voter, any numbered stubs shall be removed from the ballot card. Space to receive write-in votes shall be printed on one side of the ballot card. Instructions in substantially the following form shall be printed above the spaces for write-in votes:

"To vote for a person whose name is not printed on the ballot information sheet, darken the numbered rectangle on this ballot card that corresponds with the line on which you wish to write in. Write the person's name, the office title, and the corresponding number in the space below.

Name _____

Office _____ Position # _____"

[Similar spaces for at least eleven offices shall be included.]

**22.461(2)** The ballot guide is a list showing the text of public measures, office titles and candidate names and the voting target numbers to be marked on the ballot card. The order of offices, candidates, public measures and judges shall be determined by the applicable provisions of Iowa Code chapters 43 and 49 and 721—22.102(52). The ballot guide shall include the same code numbers as the appropriate ballot card. The ballot guide shall also include position numbers for write-in votes for each office. The number of write-in positions shall equal the number of persons to be elected to each office.

*a.* The ballot guide shall include a heading in substantially the following form:

[Election Name] Ballot Guide

[County Name]

Name and Date of Election, and a facsimile of the commissioner's signature.

*b.* The ballot guide shall include instructions in substantially the following form:

Notice to Voter: In this ballot guide find the position number printed next to the name(s) of the candidate(s) of your choice.

Blacken the rectangle with the same number on the official ballot card. Use only a #2 pencil. To write in a vote for a person whose name is not listed in this guide, blacken the appropriate rectangle on the ballot card, and write the office title and write-in position number and the person's name in the write-in section on the back of the ballot card.

**22.461(3)** The secrecy envelope is used to conceal the voter's marks. The envelope shall be made of opaque paper and shall be large enough to cover all areas of the ballot card that are used by voters to indicate their choices. The secrecy envelope shall include brief instructions on the outside of the envelope in substantially the following form:

"Secrecy envelope: After you have voted, enclose the ballot card in this envelope."

**22.461(4)** Write-in votes. To vote for a person whose name is not listed in the ballot guide, the voter shall mark the appropriately numbered write-in voting target for the office on the ballot card and write the office title, position number and person's name in spaces provided on the ballot card.

**22.461(5)** Tabulation procedures. As the absentee and special precinct board opens the affidavit envelopes containing absentee ballots cast using the MicroVote Absentee Voting System, the board shall remove the secrecy envelopes containing the ballot cards from the affidavit envelope, then remove each ballot card and examine it for write-in votes. Ballot cards containing write-in votes cast at the primary election shall also be labeled with the party name.

The ballot card shall be inspected by two precinct officials, not members of the same political party, who shall determine if the number of votes cast for the office for which the voter has cast a write-in vote exceeds the number of votes allowed for the office. If the total number of votes cast on the ballot card and the number of write-in votes cast do not exceed the allowable number of votes for that office, the ballot card shall be separated from the secrecy envelope and processed. The write-in votes shall be counted as indicated by the voter. If there are more votes cast for an office than the number of positions to be filled, no votes for that office shall be counted.

**22.461(6)** Precinct election officials shall refer to the following chart to help determine how to tabulate votes cast which do not comply with all instructions.

**Tabulation Guide for MicroVote Absentee Voting System**

| Write-in Vote | | | Ballot Card Position | | Write-in makes office overvoted? | Count write-in vote? | Comments |
|---|---|---|---|---|---|---|---|
| Office | Pos. # | Name | marked | not marked | | | |
| ✓ | ✓ | ✓ | ✓ | | no | yes | 1. Preferred method. |
| ✓ | ✓ | ✓ | | ✓ | no | yes | |
| ✓ | ✓ | ✓ | ✓ | | yes | no | |
| ✓ | ✓ | ✓ | | ✓ | yes | no, but ☞ | 2. Count other votes for that office. |
| ✓ | ✓ | no | ✓ or | ✓ | no | no | 3. If there is no name, there is nothing to count. |
| ✓ | blank/ wrong | ✓ | ✓ | | no | yes | 4. If the office is clearly identifiable. |
| ✓ | blank/ wrong | ✓ | | ✓ | no | yes | 4. If the office is clearly identifiable. |
| ✓ | blank/ wrong | ✓ | ✓ | | yes | no | |
| ✓ | blank/ wrong | ✓ | | ✓ | yes | no, but ☞ | 2. Count other votes for that office. |
| | ✓ | ✓ | ✓ | | no | yes | |
| | ✓ | ✓ | | ✓ | no | yes | |
| | ✓ | ✓ | ✓ | | yes | no | |
| | ✓ | ✓ | | ✓ | yes | no, but ☞ | 2. Count other votes for that office. |
| | | ✓ | ✓ | | no | yes ☞ | 6. If there is only one write-in vote. |
| | | ✓ | ✓ | | yes | no | |
| | | ✓ | | ✓ | no | yes ☞ | 7. If there is only one office on the ballot. |

**22.461(7)** Instructions to the voter shall be enclosed with every absentee ballot in substantially the following form:

# STATE OF IOWA
# ABSENTEE VOTING INSTRUCTIONS

***for use with the MicroVote Absentee Voting System***

***READ ALL INSTRUCTIONS CAREFULLY BEFORE VOTING!***

**WARNING:** Do not mark, fold or punch your ballot except as outlined in these instructions. If your ballot is not properly marked, your vote cannot be counted.

| **The main points:** | |
|---|---|
| ☛ Vote in secrecy; use a #2 pencil. | ☛ **Return the ballot on time:** |
| ☛ Complete, sign and date the affidavit. | By mail before election day, or |
| ☛ Seal the ballot inside the affidavit envelope. | Deliver to Auditor by _ p.m. __/__/__. |

**YOUR BALLOT PACKET CONTAINS**

- "Official Ballot" card (with numbered rectangles and space for write-in votes, if desired).
- Printed paper ballot guide showing offices and candidates (for information only).
- Secrecy envelope to enclose "Official Ballot" card.
- Affidavit envelope.
- Return envelope.

**IF YOU SPOIL YOUR BALLOT**

- Put the ballot and other materials in return envelope.
- Write "SPOILED BALLOT" on the return envelope.
- Mail or take the entire packet to the auditor. A new packet will be sent to you.

**IF YOU NEED HELP TO VOTE**

If you are blind, cannot read, or cannot mark your own ballot because you are disabled, you may choose someone to help you vote. However, these people **cannot** help you vote:

- Your employer.
- An agent of your employer.
- An officer or agent of your union.

## MARKING YOUR BALLOT

1. **Vote in secrecy.** Mark your ballot so that no one else will know how you voted, unless you need help to vote.
2. **Study the ballot guide carefully before voting on the "Official Ballot" card.** Marks cannot be erased without spoiling the ballot.
3. **Use a #2 pencil.** Marks made by other pens or pencils might not be seen by the machine that counts the votes. Do not use a red pen or red pencil.
4. **Voting for candidates.** After you have decided who you want to vote for, find the position number printed next to the candidate's name.

*position #* → 1 CANDIDATE NAME

Then on the ***"Official Ballot" card*** fill in the rectangle with the same number. For some offices you may vote for more than one person. Watch for instructions under each office title that say, "Vote for no more than ___."

5. **Write-in votes.** If you want to vote for a person whose name is not listed in the ballot guide:

a. Write the office, position number and the name of the person in the space provided on the back of the ballot card, AND

b. Mark the appropriately numbered rectangle next to the write-in position following the names of the candidates for the office for which you wish to write in a vote on the ***"Official Ballot" card.*** Marking a rectangle without writing a name will not spoil the rest of the ballot.

6. **Overvoting.** If you mark more rectangles for an office than the number of people that can be elected, your vote for that office will not be counted.
7. **No extra marks.** Make no marks on the ballot card except the marks you make to vote.

## RETURNING YOUR BALLOT

*This ballot must be returned to the county auditor even if you don't vote.*

1. **Affidavit.** After marking your ballot card,
   a. Read the affidavit on the affidavit envelope,
   b. Fill in all of the information requested, and
   c. Sign your name.
   d. Be sure to include today's date.

☛ **Your ballot will not be counted if you don't complete and sign the affidavit.**

2. **Use the secrecy envelope.** Do not fold the ballot card; place it in the secrecy envelope. Do not return the paper ballot listing offices and candidates.
3. Put the secrecy envelope containing the ballot card in the affidavit envelope.
4. **Securely seal the affidavit envelope.** Your ballot will not be counted if the affidavit envelope is not sealed, or if the envelope has been opened and resealed.
5. Enclose the affidavit envelope in the envelope addressed to the county auditor.
6. **Postmark before election day.** If you mail your ballot, the envelope must be postmarked no later than the day before the election.

7. Return postage for this ballot is ___.

8. **Personal delivery.** You may also return your ballot in person, or send it back to the auditor with someone you trust. If the ballot is not mailed, it must be received by the auditor no later than ___ p.m. on election day. Do not return the ballot to a polling place; it will not be counted if you do.

**IF YOUR BALLOT IS REJECTED BEFORE THE BALLOT ENVELOPE IS OPENED, YOU WILL BE NOTIFIED OF THE REASON.**

**22.461(8)** In addition to the instructions provided above, the following information shall be inserted in the instructions provided to voters at the general election:

*a.* *Voting on questions.* To vote in favor of a question, blacken the rectangle with the same number that appears next to the word "YES" in the question listed in the ballot guide. To vote against a question, blacken the rectangle with the same number as the word "NO."

*b.* *Voting on judges.* To vote to keep a judge in office, blacken the rectangle on the ballot card with the same number as the one next to the word "YES" opposite the judge's name listed in the ballot guide. To vote to remove a judge from office, blacken the rectangle with the same number as the word "NO."

*c.* *Straight party voting.* To vote for all of the candidates of a political party, blacken the rectangle on the ballot card with the same number as the one next to the name of that party. You can override a straight party vote by voting for a candidate of another party. If you can vote for more than one person for an office, you must mark all of your choices if you are splitting your vote between candidates of two or more parties.

This rule is intended to implement Iowa Code section 52.5.

**721—22.462(52) Fidlar & Chambers' Absentee Voting System.** This system uses a three-piece ballot including a ballot card, specimen ballot, and a Styrofoam back to catch the punches. The following subrules for the use of the Fidlar & Chambers' Absentee Voting System are prescribed.

**22.462(1)** The ballot card. The voter punches the ballot card to indicate the voter's choices. The ballot card has numbered voting targets printed on card stock and is punched with a wire punch. Ballot cards are coded to indicate the precinct and rotation of the ballot, if any, by punching a specified location at the bottom of the card.

**22.462(2)** The specimen ballot is a list showing the text of public measures, office titles and candidate names and the voting target numbers to be punched on the ballot card. The order of offices, candidates, public measures and judges shall be determined by the applicable provisions of Iowa Code chapters 43 and 49 and rule 721—22.102(52). The specimen ballot shall include the same code numbers as the appropriate ballot card. The specimen ballot shall also include position numbers for write-in votes for each office. The number of write-in positions shall equal the number of persons to be elected to each office.

*a.* The specimen ballot shall include a heading in substantially the following form:

[Election Name] Specimen ballot

[County Name]

Name and Date of Election, and a facsimile of the commissioner's signature.

*b.* The specimen ballot shall include instructions in substantially the following form:

Notice to Voter: On this specimen ballot find the position number printed next to the name of each candidate for whom you wish to vote.

position # → 1 CANDIDATE NAME

Punch the black dot above the same number on the official ballot card. Use only the enclosed wire punch. To write in a vote for a person whose name is not listed in this guide, punch the appropriate black dot on the ballot card, and write the office title and write-in position number and the person's name on the security cover attached to your ballot card.

**22.462(3)** The security cover is used to conceal the voter's marks and to provide a space for write-in votes. This shall be attached to the ballot card. The security cover and the ballot card shall be separated by a perforation to permit removal of the security cover after the write-in votes have been examined by the precinct election officials charged with counting the ballots.

On the side of the security cover that will be visible when the cover is properly folded shall be printed the following notice: "Security Cover—After you have voted, fold the security cover over the voting area so that this notice appears on the outside.

"Write-in vote. To vote for a person whose name is not listed in the specimen ballot, punch the appropriately numbered black dot on the ballot card, and write the office title, write-in position number and the person's name in a space below. Vote for no more than the number indicated under the title of the office on the ballot, including your write-in votes.

Office_____ Position #_____

Name_____"

[Similar spaces for at least twenty offices shall be included.]

**22.462(4)** Write-in votes. To vote for a person whose name is not listed in the specimen ballot, the voter shall punch the appropriately numbered black dot for the office on the ballot card and write the office title, write-in position number and person's name in spaces provided on the security cover.

**22.462(5)** Tabulation procedures. As the absentee and special precinct board opens the secrecy envelope containing an absentee ballot cast using the Fidlar & Chambers' Absentee Voting System, the board shall remove the ballot card taking care not to separate the ballot card from the security cover.

*a.* Each security cover shall be examined for write-in votes. When a write-in vote is discovered, a serial number shall immediately be stamped or written on both the ballot card and the security cover. A security cover containing write-in votes cast at the primary election shall also be labeled with the name of the political party of the voter.

*b.* The ballot card shall be inspected by two precinct officials, not members of the same political party, who shall determine if the number of votes cast for each office for which the voter has cast a write-in vote exceeds the number of votes allowed for that office. If the total number of votes cast on the ballot card and the number of write-in votes cast do not exceed the allowable number of votes for each office, the ballot card shall be separated from the security cover and processed. The write-in votes shall be counted as indicated by the voter. For any office for which the write-in votes exceed the allowable number of votes for that office, the precinct election officials shall not count any write-in votes for that office and shall refer to the tabulation guide in 22.462(6) to determine how to proceed.

**22.462(6)** Precinct election officials shall refer to the following chart to help determine how to tabulate votes cast which do not comply with all instructions.

**Tabulation Guide for Fidlar & Chambers' Absentee Voting System**

| Security Cover, Write-in Vote | | | Ballot Card Position Number | | Write-in makes office over-voted? | Count write-in vote? | Comments |
|---|---|---|---|---|---|---|---|
| Office | Pos. # | Name | marked | not marked | | | |
| ✓ | ✓ | ✓ | ✓ | | no | yes | 1. Preferred method. |
| ✓ | ✓ | ✓ | | ✓ | no | yes | |
| ✓ | ✓ | ✓ | ✓ | | yes | no | |
| ✓ | ✓ | ✓ | | ✓ | yes | no, but ☞ | 2. Count other votes for that office. |
| ✓ | ✓ | no | ✓ or | ✓ | no | no | 3. If there is no name, there is nothing to count. |
| ✓ | blank/ wrong | ✓ | ✓ | | no | yes | 4. If the office is clearly identifiable. |
| ✓ | blank/ wrong | ✓ | | ✓ | no | yes | 4. If the office is clearly identifiable. |
| ✓ | blank/ wrong | ✓ | ✓ | | yes | no | |
| ✓ | blank/ wrong | ✓ | | ✓ | yes | no, but ☞ | 2. Count other votes for that office. |
| | ✓ | ✓ | ✓ | | no | yes | |
| | ✓ | ✓ | | ✓ | no | yes | |
| | ✓ | ✓ | ✓ | | yes | no | |
| | ✓ | ✓ | | ✓ | yes | no, but ☞ | 2. Count other votes for that office. |
| | | ✓ | ✓ | | no | yes ☞ | 6. If there is only one write-in vote. |
| | | ✓ | ✓ | | yes | no | |
| | | ✓ | | ✓ | no | yes ☞ | 7. If there is only one office on the ballot. |

**22.462(7)** Instructions to the voter shall be enclosed with every absentee ballot in substantially the following form:

# STATE OF IOWA
# ABSENTEE VOTING INSTRUCTIONS
**for use with the Fidlar & Chambers' Absentee Voting System**

---

## READ ALL INSTRUCTIONS CAREFULLY BEFORE VOTING!

**WARNING:** Do not mark, fold or punch your ballot except as outlined in these instructions. If your ballot is not properly marked, your vote cannot be counted.

**The main points:**

☞ Vote in secrecy; use only the enclosed wire punch.

☞ Do not detach the security cover from the ballot card.

☞ Complete, sign and date the affidavit.

☞ Seal the ballot inside the affidavit envelope.

☞ **Return the ballot on time:**

By mail, postmark before election day, or

Deliver to Auditor by ___ p.m. __/__/__.

**YOUR BALLOT PACKET CONTAINS**

- "Official Ballot" card (with numbered black dots and security cover).
- Printed specimen ballot showing offices and candidates (for information only).
- Secrecy envelope to enclose "Official Ballot" card.
- Affidavit envelope.
- Return envelope.

**IF YOU SPOIL YOUR BALLOT**

- Put the ballot and other materials in return envelope.
- Write "SPOILED BALLOT" on the return envelope.
- Mail or take the entire packet to the auditor. A new packet will be sent to you.

**IF YOU NEED HELP TO VOTE**

If you are blind, cannot read, or cannot mark your own ballot because you are disabled, you may choose someone to help you vote. However, these people **cannot** help you vote:

- Your employer.
- An agent of your employer.
- An officer or agent of your union.

**MARKING YOUR BALLOT**

1. **Vote in secrecy.** Mark your ballot so no one else will know how you voted, unless you need help to vote.

2. **Study the specimen ballot carefully before voting on the "Official Ballot" card.** Your votes cannot be changed without spoiling the ballot.

3. **Use only the enclosed wire punch.** Do not use a pen or pencil.

4. **Unfold the security cover** and place the voting area of the ballot card over the foam backing.

5. **Voting for candidates.** After you have decided for whom you want to vote, find the position number printed next to the candidate's name.

*position #* → 1 CANDIDATE NAME

Then on the ***"Official Ballot" card*** punch out the black dot above that number. For some offices you may vote for more than one person. Watch for instructions under each office title that say, "Vote for no more than ___."

6. **Write-in votes.** If you want to vote for a person whose name is not listed on the specimen ballot:

a. Write the office, position number and the name of the person in the space provided inside the security cover, AND

b. Punch out the appropriately numbered black dot on the ***"Official Ballot" card.*** Punching a dot without writing a name will not spoil the rest of the ballot.

7. **Overvoting.** If you punch more dots for an office than the number of people that can be elected, your vote for that office will not be counted.

8. **No extra marks.** Make no marks on the ballot card except the punches you make to vote.

**RETURNING YOUR BALLOT**

*This ballot must be returned to the county auditor even if you don't vote.*

1. **Affidavit.** After marking your ballot card,
   a. Read the affidavit on the affidavit envelope,
   b. Fill in all of the information requested, and
   c. Sign your name.
   d. Be sure to include today's date.

☞ **Your ballot will not be counted if you don't complete and sign the affidavit.**

2. **Use the secrecy envelope.** Fold the security cover over the ballot card; place it in the secrecy envelope.

3. **Do not return:**
   a. Specimen ballot listing offices and candidates.
   b. Wire punch.
   c. Styrofoam backing.

4. Put the secrecy envelope containing the ballot card in the affidavit envelope.

5. **Securely seal the affidavit envelope.** Your ballot will not be counted if the affidavit envelope is not sealed, or if the envelope has been opened and resealed.

6. Enclose the affidavit envelope in the envelope addressed to the county auditor.

7. **Postmark before election day.** If you mail your ballot, the envelope must be postmarked no later than the day before the election.

8. Return postage for this ballot is ___.

9. **Personal delivery.** You may also return your ballot in person, or send it back to the auditor with someone you trust. If the ballot is not mailed, it must be received by the auditor no later than ___ p.m. on election day. Do not return the ballot to a polling place; it will not be counted if you do.

**IF YOUR BALLOT IS REJECTED BEFORE THE BALLOT ENVELOPE IS OPENED, YOU WILL BE NOTIFIED OF THE REASON.**

**22.462(8)** In addition to the instructions provided above, the following information shall be inserted in the instructions provided to voters at the general election:

*a.* *Voting on questions.* To vote in favor of a question, punch out the black dot above the same number that appears next to the word "YES" in the question listed on the specimen ballot. To vote against a question, punch out the black dot with the same number as the word "NO."

*b.* *Voting on judges.* To vote to keep a judge in office, punch out the black dot on the ballot card with the same number as the one next to the word "YES" opposite the judge's name listed on the specimen ballot. To vote to remove a judge from office, punch out the black dot with the same number as the word "NO."

*c.* *Straight party voting.* To vote for all of the candidates of a political party, punch out the black dot on the ballot card with the same number as the one next to the name of that political party. You can override a straight party vote by voting for a candidate of another party. If you can vote for more than one person for an office, you must punch all of your choices if you are splitting your vote between candidates of two or more parties.

This rule is intended to implement Iowa Code sections 52.5 and 52.35.

[Filed 9/2/75]
[Filed emergency after Notice 9/24/80, Notice 8/20/80—published 10/15/80, effective 10/15/80]
[Filed emergency 10/1/81—published 10/28/81, effective 10/1/81]
[Filed 12/3/81, Notice 10/14/81—published 12/23/81, effective 1/27/82]
[Filed 12/3/81, Notice 10/28/81—published 12/23/81, effective 1/27/82]
[Filed 11/30/83, Notice 10/12/83—published 12/21/83, effective 1/25/84]
[Filed emergency 4/15/86—published 5/7/86, effective 4/15/86]
[Filed without Notice 6/13/86—published 7/2/86, effective 9/3/86]
[Filed 10/16/87, Notice 9/9/87—published 11/4/87, effective 12/9/87]
[Filed 6/23/88, Notice 5/18/88—published 7/13/88, effective 8/17/88]
[Filed 7/26/88, Notice 6/15/88—published 8/10/88, effective 9/14/88]
[Filed 3/30/90, Notice 2/21/90—published 4/18/90, effective 5/23/90]
[Filed emergency 5/8/90—published 5/30/90, effective 5/23/90]
[Filed 5/8/92, Notice 4/1/92—published 5/27/92, effective 7/1/92]
[Filed 3/25/94, Notice 2/16/94—published 4/13/94, effective 5/18/94]
[Filed 6/28/96, Notice 5/22/96—published 7/17/96, effective 8/21/96]
[Filed 8/22/97, Notice 7/16/97—published 9/10/97, effective 10/15/97]
[Filed 12/12/97, Notice 11/5/97—published 12/31/97, effective 2/4/98]
[Filed 6/11/99, Notice 4/7/99—published 6/30/99, effective 8/4/99]

Quarantine **21**—67.5(3), 67.6(2)
Referendums **21**—20.4–20.6

Seeds
*See also SEEDS*
Bureau **21**—1.5(5)
Certification **21**—40.14
Definitions **21**—40.1, 40.6
Feed, commercial, weed content **21**—41.10(2)
Germination standards, vegetables **21**—40.8
Grain, storage **21**—90.3(2)
Labeling **21**—40.3, 40.7, 40.9–40.13
Organic **21**—47.5
Records, department **21**—6.14(4)*h*
Regulations, federal **21**—40.15
Sprouts **21**—40.11
Storage, warehouse **21**—90.3(2)
Tests **21**—40.2

Soil conditioners **21**—43.21–43.24, 44.50–44.58
Soil conservation division
*See also SOIL CONSERVATION DIVISION*
Mines/minerals **21**—1.7(3), 6.14(4)*j*
Records **21**—6.14(4)*j*, 6.14(7), 6.15(7,8)
Soil resources **21**—1.7(1)
Water resources **21**—1.7(2)

Sorghum, sales/labels **21**—ch 59
Warehouses, *see WAREHOUSES*
Weights/measures, *see WEIGHTS AND MEASURES*

**AGRICULTURE DEPARTMENT**
*See AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT*

**AIDS**
*See DISEASES*

**AID TO DEPENDENT CHILDREN (ADC)**
*See FAMILY INVESTMENT PROGRAM (FIP)*

**AIR CONDITIONERS**
Refrigerants, motor vehicles **661**—5.252

**AIRCRAFT**
Airlines, corporation tax **701**—54.7
Beverage sales, bottle deposits **567**—107.8(1)
Corporate, political use **351**—4.26(4)
Farm use, unemployment exemptions **871**—23.26(8,9)
Fuel
  Dispensation, fire safety **661**—5.304(2)
  Taxation **701**—18.37(4), 63.26, 64.1, 64.8, 64.9, 64.13, 65.2–65.9, 65.11–65.16, 65.18, 68.2, 68.9(5), 68.13
Hunting prohibition **571**—92.3(5,9), 94.7(4), 98.2(2), 99.3(2), 106.7(4)
Registration **761**—ch 750
Sales, *see Taxation below*
Standards, emission, manufacturers **567**—23.1(4)*ag*
Taxation
  Rental **701**—26.74
  Sales **701**—18.28(1), 18.49

**AIRPORTS**
Aid, state **761**—ch 710
Air/transit division **761**—700.2
Baggage X-ray machines **641**—45.1(2)
Closure **761**—720.15
Commercial, infrastructure projects **761**—ch 716
Construction, funds **761**—chs 710, 716
Definitions **761**—700.1, 715.2, 720.2
Electric utility lines, proximity **199**—11.2"13"
Firefighters/safety officers, benefits **581**—21.6(9)*b*, 21.6(9)*d*(4,5), 21.6(9)*e*, 21.8(2)*e*
Inspections **761**—720.4(4,6)
Marketing program **761**—ch 715
Private use **761**—720.5
Registration
  Closure **761**—720.15
  Forms **761**—720.4(1), 720.5(1)
  Posting **761**—720.4(7)
  Renewal **761**—720.4(5)
  Revocation **761**—720.4(8), 720.5(9)

Security agencies, E911 service board **605**—10.3
Signs, highways **761**—131.1(1)*d*(5)
Site approval **761**—720.3–720.5
Standards **761**—720.1, 720.4(1)*a*, 720.10

**AIR QUALITY**
*See ENVIRONMENTAL PROTECTION COMMISSION*

**ALCOHOL**
*See also BEER AND LIQUOR*
Abuse
*See also OWI (Operating While Intoxicated) below*
Juveniles
Driver license suspension **761**—615.23
Holding facilities, observation **201**—51.11(2)*a*(4)
Programs, medical assistance **441**—78.31(1), 78.31(4)*a*, 79.1(5)*b,r*, 79.1(16)*i*, 88.61–88.75
Records **650**—6.11(3)*b*; **657**—14.11(3)*b*
Denatured, production, fuel tax refund **701**—64.8, 68.8(6)
Ethanol, *see FUEL*
OWI (operating while intoxicated)
Education **281**—21.30, 21.31
License, driver **761**—615.23(1), ch 620
Treatment programs **201**—ch 47; **643**—ch 8
Tests
Devices/methods **661**—ch 7, 12.2
Laboratories **641**—ch 12; **661**—7.4, 12.2
Licensees/employees, gambling/racing **491**—13.11(1)

**ALIENS**
Employment **871**—10.6"4," 23.18(4), 24.60, 25.3(1)*i*; **877**—8.1, 8.7
Family investment program (FIP) recipients **441**—41.23(4,5), 41.25(6), 41.26(9)*c*, 41.27(8,10), 46.24(5), 46.25(4)
Food stamps **441**—65.47, 65.48
Healthy and well kids in Iowa (HAWK-I) program **441**—ch 86
Insurers **191**—ch 12
Land ownership **261**—58.4(8), 58.7(1)*a*; **721**—4.2(4)
Medicaid **441**—75.11, 76.6(3)

Professional licensure requirements **193**—ch 4
Refugees **441**—60.1
Status verification **441**—9.10(4)*d*
Taxation, real estate **701**—79.4, 89.8(7)*p*

**AMBULANCES/RESCUE VEHICLES**
*See also EMERGENCY MEDICAL CARE*
Accidents **641**—132.8(6)
Definitions **641**—132.1; **761**—451.2
Designation **761**—451.2
Drivers, retirement benefits **581**—21.5(1)*a*(6)
Drugs **641**—132.8(4)*j–l*, 132.8(6)*a*, 132.9(5); **657**—10.16, ch 11
Lights, authorization **641**—ch 133
Medicare program **441**—77.11, 78.11, 79.1(2), 79.1(5)*j*, 79.1(16)*i*, 79.14(1)*b*, 80.2(2)*a*, 88.5(2)*a*"12", 88.65(3), 88.65(4)*h*
Natural resources, funding **571**—28.9
Nurses **641**—132.8(1)*l,m*, 132.9(6)*d*; **655**—6.4(2)
Physicians, assistants **645**—325.7(2)
Privately owned, E911 telephone service board **605**—10.3
Registration, rebuilt **701**—34.5(10)
Rotorcraft/air taxis (carriers) **641**—132.7(3), 132.8(4)*b*
Service program requirements **641**—132.7, 132.8
Standards **641**—132.8(4,8)

**AMUSEMENTS AND AMUSEMENT PARKS**
*See also FAIRS*
Accident reports **875**—61.2(6)
Bungee jumping **875**—62.2(13)
Commissioner **875**—61.2(1)
Concessions
  Booth construction **875**—62.3, 62.19(4)
  Fairgrounds **371**—ch 4, 7.2(3)
  Gambling **481**—100.2(2)*a*, ch 101, 104.1, 104.3, 104.5, 104.6
  Inspection **875**—61.2(3,5), 62.18(6)*h*
  Maintenance **875**—62.18(6)
  Permit, operation **875**—61.2(2–4)
  Taxation **701**—17.1(5)
Definitions **481**—104.1; **875**—61.1, 62.1
Devices **481**—ch 104

Employment, agency contracts **875**—38.8(4)
Exemptions **875**—61.3
Fees **875**—61.2(9)
First aid **875**—62.11
Inspections **875**—ch 61, 62.1(3), 62.2(12), 62.18(6)
Operators **875**—61.1, 61.2(6,7,9), 62.1, 62.2(1), 62.18(3,4)
Permits **875**—61.2(2–4)
Pollution emergency **567**—26.4 Table V"3"*k*
Reports **875**—61.2(6,7)
Safety
  Barriers/shields **875**—62.15
  Compliance, time limit **875**—61.2(8)
  Compressed gas/air equipment **875**—62.13, 62.17, 62.18(6)*k*
  Electrical equipment **875**—62.2(7–9), 62.15(2), 62.18(6)*e,h*, 62.19
  Exits/entrances, rides **875**—62.4, 62.10(2), 62.15(1), 62.18
  Fire standards **875**—62.8, 62.12
  First aid **875**—62.11
  Layout **875**—62.18
  Maintenance **875**—62.17, 62.18(6)
  Manufacturers, standards **875**—62.2
  Records **875**—1.23(6)
  Signal systems **875**—62.7
Sales/use tax, *see TAXATION*
Storms/riots **875**—62.10(1)
Violations **481**—104.6

**ANAEROBIC LAGOONS**
Animal feeding operations **567**—23.5, ch 65
Industrial **567**—22.3(2), 23.5(2)
Permits, construction **567**—22.1(1,3), 22.3(2), 23.5, 60.3(1)*a*"K3"
Wells, construction **567**—49.6(2)

**ANHYDROUS AMMONIA**
Storage/handling **21**—43.6

**ANIMALS**
*See also BIRDS; FISH AND FISHING; GAME; LIVESTOCK; POULTRY; WILDLIFE*
Breeders **21**—67.3(3)*e*, 67.5(4), 67.7(4), 67.8

Care, commercial standards **21**—ch 67
Cats
*See also Diseases below; Pets below*
Care **21**—67.1, 67.2(1)*b*, 67.2(2)*c,d*, 67.3(2)*b*, 67.3(3)*d*
Exhibits **21**—64.34(6), 64.35(3)
Importation **21**—65.10
Commercial establishments, *generally* **21**—1.6(1)*b*, ch 67
Dead, disposal **21**—ch 61; **567**—101.3(1)*b,e*; **571**—ch 80, 106.11(5), *see also LIVESTOCK; RENDERING PLANTS*
Definitions **21**—67.1
Diseases
Distemper **21**—67.3(3)*d*
Facilities, housing **21**—67.2(1)*i*, 67.3(3)*c*, 67.6
Importation restrictions **21**—ch 65
Prevention **21**—67.3(2,3)
Quarantine, *see Quarantine below*
Rabies **21**—64.23–64.25, 64.34(6), 64.35(3), 65.10, 67.3(3)*d*
Reports **21**—64.3, 64.17
Sale restrictions **21**—67.5(3)
Dogs
*See also Diseases above; Pets below*
Breeders, license **21**—67.5(4)
Care **21**—67.2(1)*b,j*, 67.2(2)*c,g*, 67.3(3)*d*
Exhibits **21**—64.34(6), 64.35(3)
Game management areas **571**—51.4
Greyhounds **21**—6.14(4)*d*, 62.1–62.3, 62.40, 62.41, 62.43, 62.44; **491**—ch 7, *see also RACING AND GAMING*
Guide dogs **111**—9.3; **645**—21.15, 63.9; **681**—12.7(1), 13.7(1)
Hunting **571**—94.7(4), 98.2(2), 99.3(2), 103.3, 106.7(4)
Importation **21**—65.10
Quarantine **21**—64.24
Scientific research **641**—ch 128
Endangered species **567**—67.8(2)*c*; **571**—ch 77, 111.8
Euthanasia **21**—67.3(3)*b*, 67.7(2), 67.9
Exhibitions **21**—64.34, 64.35; **371**—ch 6, 7.4, 7.6, 7.8
Exotic, inspection **21**—76.13
Experiments, *see Research below*
Fairs, *see Exhibitions above*

Food, *see Pets below*
Furs/skins **571**—77.4(2)
Health certificates **21**—64.34, ch 65
Horses, *see HORSES*
Hunting, *see Dogs above; HUNTING*
Immunization/vaccination **21**—64.25, 64.34(6), 64.35(3), 65.10(1,2), 67.3(3)*d*, *see also LIVESTOCK: Disease: Vaccine/Vaccination*
Importation **21**—ch 65
Impoundment **21**—67.7(4)
Kennels **21**—62.41(2), 62.43, 67.1–67.6, 67.7(1,3), 67.8–67.10; **491**—13.18
Llamas **571**—61.5(7)*a*, 62.8
Pests, definition **21**—45.1, 45.25, 46.15, *see also PESTICIDES*
Pets
*See also Cats above; Dogs above*
Campgrounds **571**—61.5(7), 61.6, 62.8
Care facilities, *see HEALTH CARE FACILITIES*
Cosmetology establishments **645**—21.15, 63.9
Food
Ingredients/labels **21**—ch 42
Processing **21**—76.7–76.9, 76.10(2), 76.11
Taxation **701**—18.14, 18.23, 20.1(2)*c*
Impoundment **21**—67.7(4)
Sales tax **701**—16.21, 18.23, 18.43, 26.63
Universities **681**—12.7(1), 13.7(1)
Pounds/shelters **21**—67.1–67.6, 67.7(2,3), 67.9, 67.10; **641**—128.5
Quarantine **21**—64.2, 64.6, 64.24, 64.35, 65.1, 65.10, 67.5(3), 67.6(2), *see also LIVESTOCK: Disease*
Research
Institutions **571**—ch 111; **641**—ch 128; **681**—12.7(1), 13.7(1)
Pounds, records **21**—67.7(2)*b*, 67.7(2)*d*(3)
Taxation, exemption **701**—26.44
Sales
Greyhounds, Iowa-whelped **21**—62.40
Records **21**—67.5
Shelters, *see Pounds/Shelters above*
Taxation **701**—16.21, *see also Pets above*
Sterilization, surgical **21**—67.7(2)

Transportation **21**—67.4
Turtles **571**—ch 86
Universities **641**—ch 128; **681**—12.7(1), 13.7(1)
Veterinarians, *see VETERINARIANS*
Wardens, disease control **21**—67.6
Water use, permits **567**—51.6(1)

ANNEXATION
Board/committee, city development
*See also CITIES: Development Board*
Duties/powers, *generally* **263**—2.6, 2.8, 2.9, 2.11, chs 3–5
Ex parte communications **263**—3.6
Meetings **263**—1.3, 3.3–3.5
Members, appointment **263**—2.8, 2.9, 2.11, 3.1, 3.2, 3.31

Boundary changes
Involuntary
Elections on proposals **263**—4.1, 4.4
Hearings, public
*Generally* **263**—ch 3
Appeals **263**—4.4
Briefs **263**—3.24
Continuance **263**—3.13
Evidence **263**—3.10, 3.17, 3.19–3.21, 3.23
Ex parte communications **263**—3.6
Parties to proceedings **263**—3.7–3.11
Records **263**—3.21, 3.22, 3.28
Rehearing **263**—3.29
Subpoenas **263**—3.23

Petitions
*Generally* **263**—chs 2–4
Amendments **263**—3.1, 3.27, 3.29, 3.30
Content **263**—2.3
Costs **263**—2.4
Declaratory orders **263**—2.10, 3.1
Dismissal **263**—2.7

*ANNEXATION (cont'd)*
*Boundary changes*
*Involuntary*
*Petitions*
Initiation/filing **263**—2.1–2.3, 2.5
Review **263**—2.6
Records, approvals **263**—4.2, 4.3
Voluntary **263**—1.7
Islands **263**—ch 5
Taxation, property **701**—80.6(4)

**ANTHRAX**
*See LIVESTOCK: Disease*

**ANTIFREEZE**
Analysis **21**—85.33

**APARTMENTS**
*See BUILDINGS; FIRE AND FIRE PROTECTION; HOMES/HOUSING*

**APIARIES**
*See BEES*

**APPEAL BOARD, STATE**
Attorney general representation **543**—1.7, 1.8, 3.3, 3.4
Budget review **543**—2.1, 2.7, ch 5
Claims
Filing **543**—1.3(1), 3.1(1), 5.5
General **543**—ch 3
Payment **543**—1.11
Tort
*Generally* **543**—ch 1
Court approval **543**—1.2(2)
Vehicle registration refunds **761**—400.50(3)
Declaratory orders **543**—2.4, 5.3
Definitions **543**—1.1, 2.2
Hearings **543**—5.6–5.9
Legislature, claims review **543**—3.5
Management department **541**—1.4, 1.5(1), 1.6(1); **543**—1.2(3), 1.11
Meetings **543**—1.2
Membership **543**—2.1
Organization **543**—2.1, 5.1

Records
*Generally*, public/fair information **543**—ch 6
Address **543**—6.3(1)
Confidential **543**—6.9(2), 6.11, 6.12, 6.13(2)
Data processing **543**—6.15
Definitions **543**—6.1, 6.10(1)
Disclaimer **543**—6.17
Disclosure **543**—6.10, 6.11
Fees **543**—6.3(7)
Open **543**—6.9(1), 6.13(1)
Personally identifiable information **543**—6.14

Rule making **543**—2.3, 5.4, ch 7
Secretary, executive
Appointment **543**—1.2(3)
Duties **543**—1.3(4), 1.4(5), 1.6, 2.1, 2.3, 2.4, 3.1(5), 5.1–5.4

**APPLES**
*See ORCHARDS*

**ARBITRATION**
*See also PUBLIC EMPLOYMENT RELATIONS BOARD (PERB)*
Civil rights **161**—3.17
Collective bargaining **621**—1.2, chs 4–6, 7.5, ch 8; **875**—9.18, 36.10
Grievances, *see Collective Bargaining above*
Insurance, health services disputes **191**—34.4
Labor services **875**—9.18, 36.10
Negotiation impasse **621**—1.2, 7.5
Pipelines, damage claims **199**—10.2(2)
Worker's compensation commissioner, contested cases **876**—4.1, 4.2, 4.8(2)

**ARCHAEOLOGY**
Archaeologist, state
Address **685**—1.3
Agreements, state/federal agencies **685**—1.1, ch 5
Appointment **685**—ch 10
Contested cases **685**—ch 4
Contract services **685**—1.1(8), 1.2(4), 6.2(3)
Declaratory orders **685**—ch 3

Donations, artifact **685**—7.1(4,5), 8.1(2)
Human remains, ancient **685**—6.2(2), ch 11
Organization, duties **685**—ch 1
Programs, public **685**—1.1(6), 9.1
Publications **685**—1.1, 1.2(3), ch 6
Records **685**—8.1, 11.1(4), chs 12, 14
Repository **685**—1.1(7), chs 7, 8
Rule making **685**—ch 2

Discoveries, reporting **685**—11.1, 12.1
Historical objects, salvage **685**—1.1(4), ch 5
Preserves **571**—ch 32; **575**—2.1(2)
Radioactive waste disposal sites **567**—ch 152
Research **685**—1.1(1–3), 1.2(3), 7.1(2), chs 8, 10

**ARCHITECTS**
*See also LANDSCAPE ARCHITECTS*
Authorization, practice **193B**—2.1(3), 2.5
Bid bonds, form approval **681**—8.6(2)
Bribery, government officials **193B**—4.1(4,5)
Building laws **193B**—4.1(1)*b*, 4.1(3)*c*, *see also BUILDINGS*
Care facilities, *see HEALTH CARE FACILITIES*
Child support noncompliance **193B**—2.6, 5.46
Colleges/universities, state, bid bonds **681**—8.6(2)
Communications **193B**—4.1(7)
Competence **193B**—4.1(1)
Conflicts of interest **193B**—4.1(2), ch 7
Contested cases **193B**—ch 5
Continuing education **193B**—ch 3, 6.14(7)
Contracts, bidding/negotiation **761**—20.8
Definitions **193B**—1.5, 4.2(1)
Disabilities **193B**—4.1(1)*d*, 4.2
Drawings/reports, authorization **193B**—4.1(5)
Energy programs
Auditors, training **565**—7.5
Technical assistance analysts **565**—8.8"1"

Ethics, *generally* **193B**—ch 4
Examiners board
Address **193B**—1.2
Adjudicative proceedings, emergency **193B**—5.39

Appeals **193B**—5.34, 5.35, 9.9
Appointment **193**—1.4(4)
Certificates **193B**—1.4, 2.3
Declaratory orders **193B**—ch 8
Disciplinary action **193B**—4.1, ch 5
Examinations **193B**—2.1, 2.2, 2.4, 2.5, 6.13(2)*e,g*, 6.14(4)*b*
Hearings **193B**—ch 5
Meetings **193B**—1.3
Membership **193**—1.4(4)
Organization **193B**—ch 1
Records
*Generally*, public/fair information **193B**—ch 6
Address **193B**—6.3(1)
Confidential **193B**—4.2(10), 6.7, 6.9(2), 6.11, 6.12, 6.13(2,3), 6.14, 6.15
Data processing **193B**—6.15
Definitions **193B**—6.1
Disclosure **193B**—6.7, 6.9, 6.10, 6.11, 6.13
Fees **193B**—5.33, 6.3(7)
Hearings **193B**—5.33
Open **193B**—5.45(7), 6.9(1,4), 6.13(1), 6.15
Personally identifiable information **193B**—6.14
Personnel **193B**—6.12(1)*e*, 6.13(2)*a,b*
Rule-making **193B**—6.15(1)
Rule making **193B**—ch 7, 8.1–8.4, ch 9
Sales, authorization **193B**—ch 7
Violations **193B**—5.44(4), 5.45, 9.8, *see also Disciplinary Action this subheading above*
Fraud **193B**—4.1(5)*d*
Impairment, licensee review committee **193B**—4.2
Loans, student, noncompliance **193B**—5.47
Peer investigative committee **193B**—5.3
Registration
Aliens, legal presence **193**—ch 4
Application **193**—ch 4; **193B**—ch 2
Commerce department supervision **181**—1.4(9)
Denial **193B**—2.6, 2.7, 5.43
Fees **193B**—2.5
Renewal/reinstatement **193B**—1.4, 2.3, 2.5, 3.1, 5.41
Suspension/revocation **193B**—2.1(1), 2.6, 4.1(5)*d*, 5.25, 5.29, 5.46, 5.47

Sales tax **701**—26.2(1)
Seal/certificate of responsibility **193B**—4.1(6)
Waivers/variances **193B**—ch 9
Welcome center program, project review committee **261**—63.4(6)

**AREA COLLEGES**
*See COLLEGES AND UNIVERSITIES: Community Colleges*

**AREA EDUCATION AGENCIES**
*See EDUCATION*

**ARTS**
Area education agencies **222**—ch 4
Artists
  Directory **222**—ch 18
  Grants, *see Grants below*
  Roster **222**—3.5(2)
  Wages **875**—218.303
Authenticity, art pieces, radiation exemption **641**—45.1(10)*i*
Consultants **222**—3.5, 23.7(3)
Council, arts **222**—1.1–1.4, 2.2(1,2,4,7)
Division
  Administrator **222**—2.2(2,3), 2.3(8,29,30)
  Appeals **222**—2.3(32,33), 4.14, 6.16, 18.8
  Contracts **222**—2.3(14,27,30–32), 4.11, 6.14
  Definitions **222**—ch 1, 2.1, 3.2, 4.2, 6.2, 18.2, 20.2, 23.2
  Information **222**—2.2(5–7)
  Programs, standards/guidelines **222**—2.3
Education **222**—ch 4
Exhibitions **222**—ch 20; **371**—ch 6
Grants
  Advisory panels **222**—2.2(3,4), 2.3(16–18), 4.5
  Applications **222**—2.3(2,3,7,8,10–13,19,22,32), 4.5, 4.6, *see also Eligibility this subheading below*
  Audits **222**—2.3(29), 4.13
  Community programs **221**—ch 6
  Eligibility **222**—2.3(4–7,19,22,23), 3.3, 4.3, 6.3
  Extensions **222**—2.3(31)

Operational support **222**—ch 6
Organizations **222**—chs 4, 6
Recipients, reports **222**—2.3(27,28), 4.12, 6.15
Review, *see Advisory Panels this subheading above*
Schools **222**—ch 4
Training/technical assistance **222**—ch 3

Indemnification **222**—ch 20
Schools **222**—ch 4
Stamp design contests **571**—ch 9
State buildings program **222**—ch 23
Taxation, sales **701**—18.19, 18.27
Teachers
Endorsements **282**—14.21(2)
Staff development **222**—ch 4

**ASBESTOS**
Effluent/pretreatment standards **567**—62.4(27)
Illnesses, laboratory report **641**—1.2(1)*b*, 3.5(4)
Permits, projects, exemption **567**—22.102(2)
Pollutants, air
Emissions standards **567**—22.1(2)*i,k*, 23.1(3)*a*, 23.2(3)*g*
Hazardous/high risk defined **567**—22.100

Removal/encapsulation **289**—6.5(4)*b*; **875**—chs 81, 82
Water supplies **567**—41.3, 83.3(2)*b*(1)"6," 83.6(7)*a*(4)

**ASSESSMENTS**
Computer/industrial machinery **701**—80.7
Property **567**—ch 11; **571**—25.6, 25.7; **701**—ch 71, 76.9, chs 78, 80, 120
Sheep/wool sales **741**—ch 4
Utilities **199**—ch 17

**ASSESSORS**
Appointment **701**—72.10, 72.14, 72.15, 123.9
Budget review **543**—2.1, ch 5
Certification
Appraisal experience **701**—72.5, 72.6(1)
Continuing education **701**—72.16(2), 123.3, 123.4
Deputy **701**—72.8, 72.9, 123.4

Expiration **701**—72.5(3), 72.8(2), 72.10(1)
Renewal **701**—72.5(4), 72.8(4)
Temporary **701**—72.6, 72.13

Cities, office abolishment **701**—71.19(1)
Continuing education
Certification **701**—72.16(2), 123.3, 123.4
Committee, advisory **701**—ch 122
Courses **701**—chs 123, 124
Instructors, credit **701**—123.7

County, annual report **571**—73.2
Deputy **701**—71.19(1)*c*, 72.8–72.10, ch 123
Examinations
Continuing education **701**—123.2, 123.6
General **701**—72.1, 72.2, 72.18
Special **701**—72.11, 72.15(3)

Examining board **701**—72.14
Forms **567**—11.2; **701**—71.21
Grievances/appeals **701**—ch 125
Property tax **701**—74.5, 76.9, chs 78, 80, *see also TAXATION*
Real estate
Mobile/modular/manufactured homes **701**—74.5, 74.6; **761**—400.40
Transfer tax **701**—79.3
Valuation **263**—2.3(3); **701**—ch 71

Reappointment **701**—72.16
Reassessment expense fund **701**—ch 120
Register, eligible candidates **701**—72.12, 72.15(3)
Reports, fire marshal **661**—5.808(3)
Retirement, benefits **581**—21.5(1)*a*(10)
Smoke detectors, installation, certification **661**—5.808
Termination **701**—71.19(1), 72.17

**ASSISTED LIVING**
Certification, programs **321**—27.2, 27.12, 27.13
Complaints **321**—27.11
Consumer-directed attendant care **441**—77.30(7)*g*, 77.33(15)*g*, 77.34(8)*g*, 77.37(33)*g*, 77.39(31)*g*
Definitions **321**—27.1; **661**—5.626
Facilities **321**—27.8

Fire safety **321**—27.9; **661**—5.626
Food service **321**—27.4(3), 27.10(3)
Hearings/appeals **321**—27.13, 27.14
Medications **321**—27.4(2)
Records **321**—27.4(4), 27.10(2), 27.16

Services
  Limits **321**—27.6
  Plan **321**—27.4(1)

Staff **321**—27.5
Tenants, occupancy
  Agreement **321**—27.3(2), 27.7
  Evaluation **321**—27.3(1)
  Transfers **321**—27.3(3,4)

**ATHLETICS**
Admissions, taxation **701**—16.26, 16.39, 17.1(5)*d*
Agents **721**—4.6, ch 42
Boxing **875**—chs 97–100
Cities/counties, taxation **701**—18.39
Clubs
  Registration **61**—ch 26
  Taxation **701**—16.37, 26.24

Coach requirements **281**—36.15(6); **282**—16.7(6), ch 19
Events, taxation **701**—16.26, 16.39, 17.1(5), 17.12, 18.39
Fields
  Lighting contracts **199**—20.2(4)*f*
  Pesticide application **21**—45.50(8)

Golf courses
  Pesticide application **21**—45.50(9)
  Sales tax **701**—17.1(5)*l*, 18.39, 26.24

Professional
  Boxing **875**—1.3, chs 97, 98, 100, *see also BOXING, PROFESSIONAL*
  Taxation, nonresidents **701**—40.46, 48.1, 48.2, 48.6
  Unemployment compensation **877**—24.57
  Wrestling **875**—1.3, ch 96

Schools
  Colleges, exempt sales **701**—17.11
  Conferences **281**—ch 37

Eligibility, participants **281**—17.8(2,6), 31.5(3,4), 36.14–36.16, 36.18(5,6), 36.19, 36.20
Interscholastic organizations, *generally* **281**—ch 36
Summer activities **281**—36.15(6)

Trainers
Complaints **645**—350.22, 350.24, 350.30
Continuing education, *see Education this subheading below*
Definitions **645**—350.1
Education
Continuing
Hearings **645**—350.18
Hours **645**—350.13
Reports **645**—350.16
Sponsors **645**—350.14, 350.15
Waivers **645**—350.17, 350.19
Curriculum **645**—350.6(1)
Examinations **645**—350.6(2)
Foreign **645**—350.6(1)
Examiners board
Address **645**—350.2
Declaratory orders **645**—ch 356
Discipline **645**—350.25, 350.26
Hearings **645**—350.12, 350.18, 350.28, 350.31
Informal settlements **645**—350.27
Meetings **645**—350.3(3)
Membership **645**—350.3(1)
Rule making **645**—chs 355, 357
Hearings, *see Examiners Board this subheading above*
Informal settlements **645**—350.27
Licensure
Application **645**—350.7, 350.21(4)
Denial **645**—350.12, 350.18
Fees **645**—350.11
Inactive **645**—350.19, 350.20
Reinstatement **645**—350.20, 350.21, 350.28(13)
Renewal **645**—350.10, 350.16
Surrender **645**—350.28(14)
Suspension/revocation **645**—350.25, 350.26(9,10)

Malpractice **645**—350.23, 350.24, 350.26(16)
Peer review committees **645**—350.30
Records/reports **645**—350.9(2), 350.13(6), 350.16, 350.26(15,16,18,20), ch 358
Standards **645**—350.9
Supervision **645**—350.8, 350.10(4)
Violations **645**—350.26, 350.29

Unemployment compensation **871**—24.57
Wrestling **281**—36.15(6)*a*, *see also Professional above*

**ATTORNEY GENERAL**
Address **61**—1.1
Administration **61**—1.2, 9.10
Appeals, property forfeiture **61**—33.9
Bureaus/divisions **61**—1.3
Campgrounds, membership registration **61**—2.15(6), ch 25
Child support noncompliance, registration permits **61**—ch 24, 25.4(15)
Claims
*See also Victim Assistance Program below*
Appeals, criminal **61**—1.3(3)*c*, 9.33, 9.87
General **543**—3.3, 3.4
Tort **61**—1.3(1)*d*; **543**—1.7

Complaints **61**—1.3(2)*b*, 1.4, 1.6, 2.14(8–10), 10.3, 10.5, 10.6; **193E**—1.3(7), 2.1; **645**—20.203, 65.3, 180.103, 220.203, 301.103, 350.24(1), 350.28(3)
Consumer credit code
*See also CONSUMER PROTECTION*
Address **61**—10.1(3), 11.7
Administrator/authority **61**—2.15(2), 10.1(1), 11.1
Complaints **61**—1.3(2)*b*, 10.5, 10.6
Cosigners, notice **61**—ch 15
Declaratory orders **61**—ch 12
Fees/notification **61**—ch 22
Forms **61**—11.10, ch 19
Function **61**—1.3(2)*b*, 10.1(2)
Hearing **61**—11.5
Information **61**—10.4
Insurance
Involuntary unemployment **61**—ch 14
Noncredit property **61**—ch 20

Line, credit **61**—ch 16
Organization **61**—10.1
Records **61**—2.15(2,6,7,14), 10.2, 10.6, 11.5(2)
Registration **61**—11.7
Rental purchase agreements **61**—ch 19
Rule making **61**—ch 11
Small business regulatory impact **61**—11.8
Violations **61**—10.7, 10.8

Continuing education **61**—1.3(3)*d*
Corrections department hearings **201**—12.15
Counsel, legal **61**—1.1(2), 1.3; **591**—17.33; **661**—1.6
Crime, *see Victim Assistance Program below*
Deputies **61**—1.2(2), 33.9
Disasters, price gouging **61**—ch 31
DNA profiling **61**—ch 8
Forms **61**—1.6, 10.3, 11.10, 17.4(6), ch 19
Fund-raisers, registration **61**—ch 24
Funerals, prearranged **191**—19.13, 19.31(5), 19.51
Health clubs, registration **61**—ch 26
HIV test, disclosure **641**—11.74(15)
Information, public **61**—1.4, *see also Records below*
Line, credit **61**—ch 16
Mediation, farm disputes **61**—2.17(2), ch 17
Motor vehicles
Forfeited **61**—33.2(1), 33.4(6)
Repair/service, records **61**—ch 29
Salvaged/damaged, sales **61**—ch 27
Warranty (lemon law) **61**—ch 30

Opinions **61**—1.1(3), 1.2(2), 1.3(1)*b*, 1.4(2), 1.5, 2.15(1,8)
Organization **61**—1.3
Paroles/probations **61**—ch 8
Price gouging **61**—ch 31
Prize promotions, disclosure **61**—ch 32
Procurements, report **541**—10.3
Property, forfeiture **61**—ch 33
Records
*Generally*, public/fair information **61**—ch 2
Address **61**—2.3(1)

Administration **61**—1.4(6)
Child support recovery **61**—2.14(14)
Confidential **61**—2.1, 2.3(4), 2.4, 2.5, 2.7, 2.9–2.14
Consumer protection **61**—2.14(8,9,11), 2.15(2,6,7,14), 10.2, 10.6, 11.5(2)
Data processing **61**—2.15, 2.16
Definitions **61**—2.1
Disclaimer **61**—2.17
Disclosure **61**—2.1, 2.9–2.11, 11.5
Fees **61**—2.3(7)
Hearings **61**—2.15(14), 11.5(2)
Human services **61**—2.14(12)
Open **61**—2.1, 2.3, 2.9(1), 2.11, 2.13(1), 2.14(8), 10.2
Personally identifiable information **61**—2.1, 2.6, 2.14, 2.16
Publications **61**—2.15(10,11)
Rule-making **61**—2.15(12)

Rental purchase agreements **61**—ch 19
Reports **61**—1.1(3), 1.4(4), 9.61; **541**—10.3
Representation, state agencies **61**—1.1(2), 1.3; **193C**—4.17; **201**—12.15; **567**—10.2(7); **591**—17.33; **641**—202.14; **653**—12.13; **661**—1.6; **701**—6.3"1," 11.7, 103.7, *see also specific agency*
Training coordinator, prosecuting attorney **61**—1.3(3)*d*
Trusts, charitable **61**—2.15(16)
Victim assistance program
Administrator, financial disclosure **351**—11.2"21"*o*
Appeals **61**—9.33, 9.87
Board **61**—9.2–9.8, 9.87
Crime compensation
Administration **61**—9.25
Application **61**—9.28–9.33
Definitions **61**—9.1, 9.26, 9.51, 9.81
Department duties **61**—9.10
Director **61**—9.9
Division, address **61**—1.3(3)*b*
Grants
Administration **61**—9.10, 9.50, 9.52
Application **61**—9.53–9.55, 9.57–9.59
Contracts **61**—9.60, 9.62
Eligibility **61**—9.52, 9.56

*ATTORNEY GENERAL (cont'd)*
*Victim assistance program*
*Grants*

Records/reports **61**—9.61, 9.65
Termination **61**—9.62, 9.63

Sexual abuse **61**—9.80–9.87

**ATTORNEYS**
*See also ATTORNEY GENERAL*
Abstract/title guaranty **265**—9.13, 9.14
Adoptions, legal fees reimbursement **441**—201.6(1)*a*(7)
Child support recovery **441**—95.15, 98.122
Confidential information
Abuse cases, adult **441**—176.6(4,6), 176.10(3), 176.12
Vital statistics **641**—96.7"1," 103.1(1)*b*

County, *see COUNTIES*
Elderly, legal assistance **321**—1.7, 6.4(2)*m*, 6.12(1)*c*, 7.5
Equalization notices, protests **701**—71.14
Groundwater hazard, real estate transfer **561**—ch 9
Indigent representation **481**—ch 9; **493**—chs 10–13
Inheritance tax, legal fee deduction **701**—86.6(2)*l*
Medical assistance claims **441**—75.4
Public safety department **661**—10.6
Reimbursement, indigent defense **481**—ch 9
Retirement benefits **581**—21.5(1)*a*(3,15)
Taxpayer representation **701**—7.34, 38.7
Training coordinator **61**—1.3(3)*d*
Unemployment compensation cases **871**—22.18
Vehicle ownership transfer **761**—400.14(6)

**AUCTIONS**
Forfeited property, natural resources department **571**—ch 10
Livestock markets, *see LIVESTOCK*
Real estate brokers, disclosure **193E**—1.37(11)
Sales tax **701**—18.8
Vehicles
Abandoned **761**—ch 480
Dealers **761**—425.20(2)

**AUDIOLOGY**
*See SPEECH PATHOLOGY AND AUDIOLOGY*

**AUDITOR OF STATE**
Audits
Annual **81**—25.8, 25.9; **701**—6.3"6"
Fees **81**—ch 21
Certification, accounting systems **81**—ch 26
County auditor, duties, *see COUNTIES*
Crime prevention grant program **428**—4.13
Declaratory orders **81**—25.10
Informal settlements **81**—25.11
Office location **81**—25.3
Organization **81**—ch 25
Records
*Generally*, public/fair information **81**—ch 24
Address **81**—24.3
Audit **81**—24.10(2)*e*, 24.13(2)*e*
Confidential **81**—24.10, 24.12–24.15
Data processing **81**—24.14–24.16
Disclaimer **81**—24.17
Disclosure **81**—24.9–24.11
Fees **81**—24.3(7)
Litigation **81**—24.14(3)
Open **81**—24.9(1), 24.10, 24.11, 24.13(1), 24.15, 25.9
Personally identifiable information **81**—24.9(3), 24.14, 24.16
Personnel **81**—24.13(2)*g*, 24.14(1)
Rule-making **81**—24.15(2)
Reports, purchases **541**—10.3
Rule making **81**—ch 27

**AUJESZKY'S DISEASE**
*See LIVESTOCK: Swine: Disease: Pseudorabies*

**AUTOMOBILES**
*See MOTOR VEHICLES*

**AUTOPSIES**
*See DEATH*