State of Iowa

Iowa Administrative Code Supplement

Biweekly
September 8, 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

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[Previous Supplement dated 8/25/99]

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*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.

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CHAPTER 43
ANNUITY MORTALITY TABLES FOR USE IN DETERMINING RESERVE LIABILITIES FOR ANNUITIES

[Prior to 10/22/86, Insurance Department[510]]

191—43.1(508) Purpose. The purpose of this chapter is to recognize the following mortality tables for use in determining the minimum standard of valuation for annuity and pure endowment contracts: the 1983 Table "a" and 1983 Group Annuity Mortality (1983 GAM) Table, the Annuity 2000 Mortality Table, and the 1994 Group Annuity Reserving (1994 GAR) Table.

191—43.2(508) Definitions. For purposes of this chapter, the following definitions shall apply:

"1983 GAM Table" means that mortality table developed by the Society of Actuaries Committee on Annuities and adopted as a recognized mortality table for annuities in December 1983 by the National Association of Insurance Commissioners.

"1983 Table 'a'" means that mortality table developed by the Society of Actuaries Committee to Recommend a New Mortality Basis for Individual Annuity Valuation and adopted as a recognized mortality table for annuities in June 1982 by the National Association of Insurance Commissioners.

"1994 GAR Table" means that mortality table developed by the Society of Actuaries Group Annuity Valuation Table Task Force and shown on pages 866 and 867 of Volume XLVII of the Transactions of the Society of Actuaries (1995). The 1994 GAR Table was adopted as a recognized mortality table for annuities in December 1996 by the National Association of Insurance Commissioners.

"Annuity 2000 Mortality Table" means that mortality table developed by the Society of Actuaries Committee on Life Insurance Research and shown on page 240 of Volume XLVII of the Transactions of the Society of Actuaries (1995). The Annuity 2000 Mortality Table was adopted as a recognized mortality table for annuities in December 1996 by the National Association of Insurance Commissioners.

191—43.3(508) Individual annuity or pure endowment contracts.

43.3(1) Except as provided in subrules 43.3(2) and 43.3(3), the 1983 Table "a" is recognized and approved as an individual annuity mortality table for valuation and, at the option of the company, may be used for purposes of determining the minimum standard of valuation for any individual annuity or pure endowment contract issued on or after January 1, 1980.

43.3(2) Except as provided in subrule 43.3(3), either the 1983 Table "a" or the Annuity 2000 Mortality Table shall be used for determining the minimum standard of valuation for any individual annuity or pure endowment contract issued on or after December 30, 1985.

43.3(3) Except as provided in subrule 43.3(4), the Annuity 2000 Mortality Table shall be used for determining the minimum standard of valuation for any individual annuity or pure endowment contract issued on or after January 1, 2000.

43.3(4) The 1983 Table "a" without projection is to be used for determining the minimum standard of valuation for an individual annuity or pure endowment contract issued on or after January 1, 2000, solely when the contract is based on life contingencies and is issued to fund periodic benefits arising from:

1. Settlements of various forms of claims pertaining to court settlements or out-of-court settlements from tort actions;
2. Settlements involving similar actions such as workers' compensation claims; or
3. Settlements of long-term disability claims where a temporary or life annuity has been used in lieu of continuing disability payments.

191—43.4(508) Group annuity or pure endowment contracts.

43.4(1) Except as provided in subrules 43.4(2) and 43.4(3), the 1983 GAM Table, the 1983 Table "a" and the 1994 GAR Table are recognized and approved as group annuity mortality tables for valuation and, at the option of the company, any one table may be used for purposes of valuation for any annuity or pure endowment purchased on or after January 1, 1980, under a group annuity or pure endowment contract.

43.4(2) Except as provided in subrule 43.4(3), either the 1983 GAM Table or the 1994 GAR Table shall be used for determining the minimum standard of valuation for any annuity or pure endowment purchased on or after December 30, 1985, under a group annuity or pure endowment contract.

43.4(3) The 1994 GAR Table shall be used for determining the minimum standard of valuation for any annuity or pure endowment purchased on or after January 1, 2000, under a group annuity or pure endowment contract.

191—43.5(508) Application of the 1994 GAR Table. In using the 1994 GAR Table, the mortality rate for a person aged x in year (1994 + n) is calculated as follows:

$$q_x^{1994+n} = q_x^{1994} (1 - AA_x)^n$$

where the q_x^{1994} and AA_xs are as specified in the 1994 GAR Table.

191—43.6(508) Separability. If any provision of this rule or the application thereof to any person or circumstances is for any reason held to be invalid, the remainder of the rule and the application of such provision to other persons or circumstances shall not be affected thereby.

These rules are intended to implement Iowa Code sections 508.36(3)*"a"*(1) and 508.36(3)*"a"*(3)(c).

[Filed emergency 12/27/85—published 1/15/86, effective 12/30/85]
[Editorially transferred from [510] to [191] IAC Supp. 10/22/86; see IAB 7/30/86]
[Filed 8/20/99, Notice 7/14/99—published 9/8/99, effective 10/13/99]

CHAPTER 44
SMOKER/NONSMOKER MORTALITY TABLES FOR USE IN DETERMINING MINIMUM RESERVE LIABILITIES AND NONFORFEITURE BENEFITS

191—44.1(508) Purpose. The purpose of the rule is to permit the use of mortality tables that reflect differences in mortality between smokers and nonsmokers in determining minimum reserve liabilities and minimum cash surrender values and amounts of paid-up nonforfeiture benefits for plans of insurance with separate risk classifications for smokers and nonsmokers.

191—44.2(508) Definitions.

"1980 CSO Table, with or without Ten-Year Select Mortality Factor" means that mortality table, consisting of separate rates of mortality for male and female lives, developed by the Society of Actuaries Committee to Recommend New Mortality Tables for Valuation of Standard Individual Ordinary Life Insurance, incorporated in the 1980 NAIC Amendments to the Model Standard Valuation Law and Standard Nonforfeiture Law for Life Insurance, and referred to in those models as the Commissioners 1980 Standard Ordinary Mortality Table, with or without Ten-Year Select Mortality Factors. The same select factors will be used for both smokers and nonsmokers tables.

"1980 CET Table" means that mortality table consisting of separate rates of mortality for male and female lives, developed by the Society of Actuaries Committee to Recommend New Mortality Tables for Valuation of Standard Individual Ordinary Life Insurance, incorporated in the 1980 NAIC Amendments to the Model Standard Nonforfeiture Law for Life Insurance, and referred to in those models as the Commissioners 1980 Extended Term Insurance Table.

"1958 CSO Table" means that mortality table developed by the Society of Actuaries Special Committee on New Mortality Tables, incorporated in the NAIC Model Standard Nonforfeiture Law for Life Insurance, and referred to in that model as the Commissioners 1958 Standard Ordinary Mortality Table.

"1958 CET Table" means that mortality table developed by the Society of Actuaries Special Committee on New Mortality Tables, incorporated in the NAIC Model Standard Nonforfeiture Law for Life Insurance, and referred to in that model as the Commissioners 1958 Extended Term Insurance Table.

"Smoker and nonsmoker mortality tables" means those mortality tables with separate rates of mortality for smokers and nonsmokers derived from the tables defined in the first four paragraphs of this rule which were developed by the Society of Actuaries Task Force on Smoker/Nonsmoker Mortality and the California Insurance Department staff and recommended by the NAIC Technical Staff Actuarial Group.

"Composite mortality tables" means those mortality tables defined in the first four paragraphs of this rule as they were originally published with rates of mortality that do not distinguish between smokers and nonsmokers.

191—44.3(508) Alternate tables.

44.3(1) In determining minimum reserve liabilities and minimum cash surrender values and amounts of paid-up nonforfeiture benefits for any policy of insurance delivered or issued for delivery in this state after the operative date of Iowa Code section 508.37(6)*"k"* for that policy form and before January 1, 1989, at the option of the company and subject to the conditions stated in rule 44.4(508):

a. The 1958 CSO Smoker and Nonsmoker Mortality Tables may be substituted for the 1980 CSO Table, with or without Ten-Year Select Mortality Factors, and

b. The 1958 CET Smoker and Nonsmoker Mortality Tables may be substituted for the 1980 CET Table.

For any category of insurance issued on female lives with minimum reserve liabilities and minimum cash surrender values and amounts of paid-up nonforfeiture benefits determined using the 1958 CSO or 1958 CET Smoker and Nonsmoker Mortality Tables, such minimum values may be calculated according to an age not more than six years younger than the actual age of the insured. Further, the substitution of the 1958 CSO or 1958 CET Smoker and Nonsmoker Mortality Tables is available only if made for each policy of insurance on a policy form delivered or issued for delivery on or after the operative date for that policy form and before a date not later than January 1, 1989.

44.3(2) In determining minimum reserve liabilities and minimum cash surrender values and amounts of paid-up nonforfeiture benefits for any policy of insurance delivered or issued for delivery in this state after the operative date of Iowa Code section 508.37(6)*"k"* for that policy form, at the option of the company and subject to the conditions stated in rule 44.4(508):

a. The 1980 CSO Smoker and Nonsmoker Mortality Tables, with or without Ten-Year Select Mortality Factors, may be substituted for the 1980 CSO Table, with or without Ten-Year Select Mortality Factors, and

b. The 1980 CET Smoker and Nonsmoker Mortality Tables may be substituted for the 1980 CET Table.

191—44.4(508) Conditions. For each plan of insurance with separate rates for smokers and nonsmokers an insurer may:

1. Use composite mortality tables to determine minimum reserve liabilities and minimum cash surrender values and amounts of paid-up nonforfeiture benefits,
2. Use smoker and nonsmoker mortality tables to determine the valuation net premiums and additional minimum reserves, if any, required by Iowa Code section 508.36(3)*"a"*(1) and use composite mortality tables to determine the basic minimum reserves, minimum cash surrender values and amounts of paid-up nonforfeiture benefits, or
3. Use smoker and nonsmoker mortality tables to determine minimum reserve liabilities and minimum cash surrender values and amounts of paid-up nonforfeiture benefits.

191—44.5(508) Separability. If any provision of this chapter or the application of this chapter to any person or circumstance is for any reason held to be invalid, the remainder of this chapter and the application of the remaining provisions to other persons or circumstances shall not be affected.

These rules are intended to implement Iowa Code section 508.37(6)*"h"*(6).

[Filed 12/10/86, Notice 11/5/86—published 12/31/86, effective 2/4/87]

c. This additional amount shall be held in trust by the employer for the benefit of the participant. Payment into an ERISA-approved fund for the benefit of the participant shall satisfy this requirement. The specific fund shall be specified in the agreement.

d. Payment of postsecondary tuition expenses from the ERISA fund established through this program shall be made directly to the postsecondary institution or registered apprenticeship program provider unless otherwise designated in the certified program agreement.

e. The certified program work site agreement shall specify any tax implications that the participant may encounter as a result of the accumulation of ERISA funds.

11.3(9) *Participant's agreement to work for the employer.* The participant must agree to work for the employer for at least two years following the completion of the participant's postsecondary education as required by the certified program. However, the agreement may provide for additional education and work commitments beyond the two years. This agreement may be contingent upon the employer's willingness to provide full-time, nonseasonal employment with industry standard wages and benefits.

11.3(10) *Repayment of tuition funding.* If the participant does not complete the two-year employment obligation, the participant's agreement to repay to the employer the amount paid by the employer toward the participant's postsecondary education expenses pursuant to subrule 11.3(8) shall provide that:

a. If a participant does not complete the certified program identified by the agreement after entering the postsecondary component of the school to career education program, any unexpended funds being held in trust for the participant's postsecondary education shall be paid back to the employer. In addition, the participant must repay to the employer amounts paid from the trust which were expended on the participant's behalf for postsecondary education.

b. If a participant selects a different career field and chooses not to complete the certified program identified in the agreement prior to entering the postsecondary component of the education program, one-half of the moneys being held in trust for the participant's postsecondary education shall be paid either to an apprenticeship program of the participant's choice which has been approved under 29 CFR, Subtitle A, Part 29 (February 18, 1977, as amended April 30, 1984) or a postsecondary education institution as defined in Iowa Code section 261C.3 of the participant's choice to pay tuition or expenses of the participant. The other one-half of the trust moneys shall be paid back to the employer. Any moneys to be transferred for the benefit of the participant which are not transferred within five years for purposes of education at the designated postsecondary institution shall be paid back to the employer.

c. If the participant elects to change the participant's postsecondary education choice, but agrees to fulfill the training and employment conditions in the certified program work site agreement, the program agreement shall be modified by consent of the participant, sponsor, parent or guardian, if applicable, employer representative and representatives of the newly selected postsecondary educational entity.

d. If the employer does not offer full-time, permanent employment in the career field designated in the agreement that is consistent with industry standard wages and benefits, the participant shall not be required to make repayment to the employer.

e. If a participant terminates full-time, permanent employment that offers a wage and benefit package consistent with industry standards prior to the two-year time period, the participant shall repay postsecondary education expenses to the employer in whole or in part.

f. If the employer permanently terminates employment of the participant and unemployment insurance is awarded, no repayment of the tuition assistance funds shall be required.

11.3(11) *Additional tuition allowance.* Employers may, at their discretion, pay participants an additional amount that will cover more than two years of postsecondary tuition.

11.3(12) *Documentation of certified program.* Documentation of the internship's being part of registered apprenticeship program under 29 CFR Subtitle A, Part 29, which is conducted pursuant to an agreement as provided in 1998 Iowa Acts, chapter 1225, section 18, or a program approved by the state board of education must be part of the agreement.

11.3(13) *Certified program work site agreement submittal.* The certified program work site agreement must be submitted to the department for approval prior to the beginning of the internship. The department shall review the agreement and provide a letter of approval or denial within 30 days of receipt of the agreement.

261—11.4(77GA,ch1225) Payroll expenditure refund.

11.4(1) *Eligible Iowa payroll expenditure refund.* An Iowa employer who employs a participant in a certified school to career program may claim a refund of 20 percent of the employer's payroll expenditures for each participant in the certified program. The refund is limited to the first 400 hours of payroll expenditures per participant for each calendar year the participant is in the certified program, not to exceed three years per participant. In order to receive the refund, an employer must submit a finalized certified program work site agreement to the department and receive approval for the program prior to the participant's beginning work for the business.

11.4(2) *Claim submittal process.* To receive a refund under subrule 11.4(1) for a calendar year, the employer shall file the claim by July 1 of the following calendar year. Claims that are not received by July 1 of the calendar year following the payroll expenditure shall not receive a refund. The claim shall be filed on forms provided by the department of economic development and the employer shall provide such information regarding the employer's participation in a certified school to career program as the department may require. If the amount appropriated to the certified school to career program in any given fiscal year is insufficient to pay all of the refund claims for the applicable calendar year, each claimant shall receive a proportion of the claimant's refund equal to the ratio of the amount appropriated to the total amount of refund claims. Any unpaid portion of a claim shall not be paid from a subsequent fiscal year appropriation. The participant's social security number will be required for purposes of program evaluation.

These rules are intended to implement 1998 Iowa Acts, chapter 1225, sections 15 to 21.

[Filed 11/20/98, Notice 9/9/98—published 12/16/98, effective 1/20/99]
[Filed 8/20/99, Notice 7/14/99—published 9/8/99, effective 10/13/99]

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CHAPTER 13
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Rescinded IAB 7/19/95; effective 8/23/95

CHAPTER 14
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Transferred to 345—Ch 12, IAB 7/17/96, effective 7/1/96, pursuant to 1996 Iowa Acts, Senate File 2409.

CHAPTERS 15 and 16
Reserved

CHAPTER 20
ACE PIAP PROGRAM

261—20.1(78GA,HF772,SF465) Purpose. The purpose of the ACE PIAP program is to provide capital funds for accelerated career education programs. Funding for the program is from the physical infrastructure assistance fund. The goal of the program is to provide an enhanced skilled workforce in Iowa.

261—20.2(78GA,HF772,SF465) Definitions.

"Accelerated career education program" or *"ACE"* means the program established pursuant to 1999 Iowa Acts, Senate File 465, section 3.

"Agreement" means a program agreement referred to in 1999 Iowa Acts, Senate File 465, section 3, between an employer and a community college.

"Community college" means a community college established under Iowa Code chapter 260C or a consortium of two or more community colleges.

"Employee" means a person employed in a program job.

"Employer" means a business or consortium of businesses engaged in interstate or intrastate commerce for the purposes of manufacturing, processing or assembling products, construction, conducting research and development, or providing services in interstate or intrastate commerce, but excluding retail services.

"Highly skilled job" means a job with a broadly based, high-performance skill profile including advanced computation and communication skills, technology skills and workplace behavior skills, and for which an applied technical education is required.

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

"IDED board" means the Iowa economic development board authorized under Iowa Code section 15.103.

"Participant" means an individual who is enrolled in an accelerated career education program at a community college.

"Participant position" means the individual student enrollment position available in an accelerated career education program.

"PIAP" means the physical infrastructure assistance program established in Iowa Code section 15E.175.

"Program capital cost" means classroom and laboratory renovation, new classroom and laboratory construction, site acquisition or preparation.

"Program job" means a highly skilled job available from an employer pursuant to a program agreement.

"Program job position" means a job position which is planned or available for an employee by the employer pursuant to a program agreement.

"Program operating costs" means all necessary and incidental costs of providing program services.

"Program services" means services that include all of the following provided they are pursuant to a program agreement: program needs assessment and development, job task analysis, curriculum development and revision, instruction, instructional materials and supplies, computer software and upgrades, instructional support, administrative and student services, related school to career training programs, skill or career interest assessment services and testing and contracted services.

"Vertical infrastructure" means land acquisition and construction, major renovation and major repair of buildings, all appurtenant structures, utilities, site development and recreation trails. Vertical infrastructure does not include equipment, routine, recurring maintenance or operational expenses or leasing of a building, appurtenant structure, or utility without a lease-purchase agreement.

261—20.3(78GA,HF772,SF465) Eligibility.

20.3(1) *Eligible programs.* All programs must demonstrate increased capacity to enroll additional students. To be eligible, a program must be either:

a. A credit career, vocational, or technical education program resulting in the conferring of a certificate, diploma, associate of science degree, or associate of applied science degree; or

b. A credit equivalent career, vocational, or technical educational program consisting of not less than 540 contact hours of classroom and laboratory instruction and resulting in the conferring of a certificate or other recognized, competency-based credential.

20.3(2) *Threshold requirements.* To be considered for funding, the following threshold requirements shall be met:

a. There must be documentation of pledged program positions paying at least 200 percent of the poverty level for a family of two. If the wage designated is after a training or probationary period, the employer must document that there is a plan in place regarding time frames for transition to the permanent full-time wage, and the employer must provide documentation that these time frames are reasonable and that the employer has previously adhered to the time schedule.

b. Documentation must be provided to demonstrate that the program meets the definition of an eligible program as detailed in subrule 20.3(1).

c. An applicant must demonstrate that the project builds capacity of the community college to train additional students for available jobs.

d. Documentation must be supplied to establish a 20 percent employer cash or in-kind match for program operating funds.

e. An applicant shall describe how the project enhances geographic diversity of project offerings across the state.

f. The community college must document that other private or public sources of funds are maximized prior to ACE capital cost funding.

g. ACE program capital cost projects must enhance the geographic diversity of state investment in Iowa. The IDED board will continuously review projects to ensure that there is statewide impact. The IDED board will prioritize projects to ensure geographic diversity.

20.3(3) *Vertical infrastructure.* Funds shall be used only for ACE program capital costs for projects that meet the definition of vertical infrastructure. Building repair, renovation and construction for the purposes of ACE program equipment installation shall be allowed.

261—20.4(78GA,HF772,SF465) Funding allocation.

20.4(1) *Base allocation.*

a. For fiscal year 1999-2000, $3 million shall be allocated equally among the community colleges in the state. If a community college fails to obligate or encumber any of its allocation by April 1 of the fiscal year, the funds for that community college will revert back to the state level to be awarded to other community colleges on a competitive basis as described in subrule 20.4(2).

b. Community colleges shall submit an application, with an accompanying program agreement, to access the allocated funds. The application and program agreement shall document that all ACE eligibility requirements as detailed in rule 20.3(78GA,HF772,SF465) have been met.

c. All applications and program agreements for allocated funds that meet the ACE eligibility requirements will be forwarded to the IDED board for recommended funding.

20.4(2) *Competitive awards.* ACE program capital funds that are not allocated to a community college will be made competitively available to community colleges for ACE program capital costs.

20.4(3) *Evaluation criteria for competitive awards.* Applications and accompanying program agreements meeting all ACE eligibility requirements will be prioritized and rated using the following point criteria:

a. The degree to which the applicant adequately demonstrates a lack of existing public or private infrastructure for development of the partnership. There must be a demonstration that the project will build capacity in order for the project to be considered. Capacity will be measured in terms of jobs that are pledged, students that are interested in the program area and the capacity that is built at the community college to undertake the programming. Up to 33 points will be awarded.

b. Demonstration that the jobs resulting from the partnership would include wages, benefits and other attributes that would improve the quality of employment within the region. Projects where the average wage for the pledged jobs exceeds the regional or county average wage, whichever is lower for the location where the training is to be provided, will be awarded points based upon the percentage that the average wage of the pledged jobs exceeds the applicable average wage. Up to 33 points will be awarded.

c. Evidence of local, public or private contributions that meet the requirements of 1999 Iowa Acts, Senate File 465, section 3. Projects will be rated based upon the percentage of match that is pledged to the ACE program capital cost for the project. Up to 34 points will be awarded.

Applications that do not receive at least 66 out of 100 will not be forwarded to the IDED board for review. Projects will be competing against each other for IDED board approval and the number of points that a project receives will be considered in the award process.

261—20.5(78GA,HF772,SF465) Application procedures.

20.5(1) *Preapplication.* A preapplication process will be available to provide applicants with feedback as the project is developed. A preapplication can be made prior to employer sign off or community college board of director approval. Preapplications for projects that will cross community college boundaries, or for projects that involve employers from multiple community college areas, must have sign off from all college areas involved. A successful preapplication review will result in funds being set aside for the project from the competitive funds pool for 60 days, pending the receipt of a final application. Subsequent to the voluntary preapplication process, an application with an accompanying program agreement will be required to request funding from ACE PIAP funds.

20.5(2) *Final application.* Applicants shall submit a final application to IDED to request program funds.

20.5(3) *Staff review and recommendation.* A committee of IDED staff will review and rate applications based upon the rating criteria. Based upon this review, a decision will be made regarding submittal of the application to the IDED board for action.

20.5(4) *IDED board action.* The IDED board will review ACE program capital cost projects meeting the requirements prescribed in these rules. A program agreement, which is approved by the community college board of directors, must be attached to the final application. Approval or denial of applications that are submitted that are complete and in final form shall be made no later than 60 days following receipt of the application by the department. Subsequent to board approval, an award letter will be sent. The award letter will be followed by a contract. After a signed contract is in place, funding for a project may be requested.

261—20.6(78GA,HF772,SF465) Program agreements.

20.6(1) Program agreements will be developed by an employer, a community college and any employee of an employer representing a program job. The development of these agreements may be facilitated by an entity representing a group of employers. Any community college that has an employer from its merged area involved in an ACE project must enter into the agreement. If a bargaining unit is in place with the employer pledging the jobs, a representative of the bargaining unit shall take part in the development of the program agreement. All participating parties must sign the program agreement. The agreement must include employer certification of contributions that are made toward the program costs.

20.6(2) A program agreement shall include, at a minimum, the following terms: match provided by the employer; tuition, student fees, or special charges fixed by the community college board of directors; guarantee of employer payments; type and amount of funding sources that will be used to pay for program costs; description of program services and implementation schedule; the term of the agreement, not to exceed five years; the employer's agreement to interview graduates for full-time positions and provide hiring preference; for employers with more than four sponsored participants, certification that a job offer will be made to at least 25 percent of those participants that complete the program; an agreement by the employer to provide a wage level of no less than 200 percent of the federal poverty guideline for a family of two; a provision that the employer does not have to fulfill the job offer requirement if the employer experiences an economic downturn; a provision that the participants will agree to interview with the employer following completion of the program; and default procedures.

261—20.7(78GA,HF772,SF465) Monitoring. IDED will monitor ACE PIAP projects to ensure compliance with all program requirements.

261—20.8(78GA,HF772,SF465) Customer tracking system. Participants in the ACE program shall be included in the customer tracking system implemented by IWD. In order to achieve this, social security numbers on all ACE program trainees will be required.

261—20.9(78GA,HF772,SF465) Program costs recalculation. Program costs shall be calculated or recalculated on an annual basis based on the required program services for a specific number of participants. Agreement updates reflecting this recalculation must be submitted to IDED annually to review compliance with program parameters.

These rules are intended to implement 1999 Iowa Acts, House File 772 and Senate File 465.

[Filed emergency 6/18/99—published 7/14/99, effective 6/18/99]
[Filed 8/20/99, Notice 7/14/99—published 9/8/99, effective 10/13/99]

CHAPTER 23
IOWA COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM

261—23.1(15) Purpose. The primary purpose of the community development block grant program is the development of viable communities by providing decent housing and suitable living environments and expanding economic opportunities, primarily for persons of low and moderate income.

261—23.2(15) Definitions. When used in this chapter, unless the context otherwise requires:

"Activity" means one or more specific activities, projects or programs assisted with CDBG funds.

"Career link" means a program providing training and enhanced employment opportunities to the working poor and underemployed Iowans.

"CDBG" means community development block grant.

"EDSA" means economic development set-aside.

"HUD" means the U.S. Department of Housing and Urban Development.

"IDED" means the Iowa department of economic development.

"LMI" means low and moderate income. Households earning 80 percent or less of the area median income are LMI households.

"PFSA" means public facilities set-aside.

"Program income" means gross income a recipient receives that is directly generated by the use of CDBG funds, including funds generated by the use of program income.

"Program year" means the annual period beginning January 1 and ending December 31.

"Quality jobs program" means a job training program formerly funded with CDBG funds that is no longer operational.

"Recipient" means a local government entity awarded CDBG funds under any CDBG program.

"Working poor" means an employed person with an annual household income between 25 and 50 percent of the area median family income.

261—23.3(15) Eligible applicants. All incorporated cities and all counties in the state of Iowa, except those designated as entitlement areas by the U.S. Department of Housing and Urban Development, are eligible to apply for and receive funds under this program.

23.3(1) Any eligible applicant may apply directly or on behalf of a subrecipient.

23.3(2) Any eligible applicant may apply individually or jointly with another eligible applicant or other eligible applicants.

23.3(3) Applicants shall not apply on behalf of eligible applicants other than themselves.

261—23.4(15) Allocation of funds. IDED shall distribute CDBG funds as follows:

23.4(1) *Administration.* Two percent of total program funds including program income plus $100,000 shall be used for state administration.

23.4(2) *Technical assistance.* One percent of the funds shall be used for the provision of substantive technical assistance to recipients.

23.4(3) *Housing fund.* Twenty-five percent of the funds shall be reserved for a housing fund to be used to improve the supply of affordable housing for LMI persons.

23.4(4) *Job creation, retention and enhancement fund.* Twenty percent of the funds shall be reserved for a job creation, retention and enhancement fund to be for workforce development and to expand economic opportunities and job training for LMI persons. Job creation, retention and enhancement funds are awarded through three programs: the economic development set-aside (EDSA), the public facilities set-aside (PFSA) and career link.

23.4(5) *Contingency funds.* IDED reserves the right to allocate up to 5 percent of funds for projects dedicated to addressing threats to public health and safety and opportunities that would be foregone without immediate assistance.

23.4(6) *Competitive program.* The remaining funds shall be available on a competitive basis through the water and sewer fund and community facilities and services fund. Of the remaining amount, 70 percent shall be reserved for the water and sewer fund, 15 percent shall be reserved for the community facilities and services fund and 15 percent shall be allocated to either the water and sewer fund or community facilities and services fund at the discretion of the director, based on requests for funds.

23.4(7) *Reallocation.* Any reserved funds not used for their specified purpose within the program year shall be reallocated to the competitive program for use through the water and sewer fund and community facilities and services fund according to the percentages set forth in subrule 23.4(6).

23.4(8) *Recaptured funds.* Recaptured funds from all programs except the former quality jobs program shall be returned to the competitive program for use through the water and sewer fund and community facilities and services fund according to the percentages set forth in subrule 23.4(6). Funds recaptured from the former quality jobs program shall revert to the job creation, retention and enhancement fund. Recaptured funds shall be committed to open contracts. Preference for reimbursement shall be given to those contracts funded in prior years, with priority given to those from the earliest year not yet closed out. Reimbursement will then proceed on a first-in, first-out basis.

261—23.5(15) Common requirements for funding. Applications for funds under any of the CDBG programs shall meet the following minimum criteria:

23.5(1) Proposed activities shall be eligible, as authorized by Title I, Section 105 of the Housing and Community Development Act of 1974 and as further defined in 24 CFR 570, as revised April 1, 1997.

23.5(2) Proposed activities shall address at least one of the following three objectives:

1. Primarily benefit low- and moderate-income persons. To address this objective, 51 percent or more persons benefiting from a proposed activity must have incomes at or below 80 percent of the area median income.
2. Aid in the prevention or elimination of slums and blight. To address this objective, the application must document the extent or seriousness of deterioration in the area to be assisted, showing a clear adverse effect on the well-being of the area or community and illustrating that the proposed activity will alleviate or eliminate the conditions causing the deterioration.
3. Meet an urgent community development need. To address this objective, the applicant must certify that the proposed activity is designed to alleviate existing conditions that pose a serious and immediate threat to the health or welfare of the community and that are recent in origin or that recently became urgent; that the applicant is unable to finance the activity without CDBG assistance and that other sources of funding are not available. A condition shall be considered recent if it developed or became urgent within 18 months prior to submission of the application for CDBG funds.

23.5(3) Applicants shall demonstrate capacity for grant administration. Administrative capacity shall be evidenced by previous satisfactory grant administration, availability of qualified personnel or plans to contract for administrative services. Funds used for administration shall not exceed 10 percent of the CDBG award amount or 10 percent of the total contract amount, except for awards made under the career link program, for which funds used for administration shall not exceed 5 percent of the CDBG award amount.

23.5(4) Applicants who have received previous CDBG awards shall have demonstrated acceptable past performance, including the timely expenditure of funds.

23.5(5) Applications shall demonstrate the feasibility of completing the proposed activities with the funds requested.

23.5(6) To the greatest extent feasible, applications shall propose the use of CDBG funds as gap financing. Applications shall identify and describe any other sources of funding for proposed activities.

23.5(7) Applications shall include a community development and housing needs assessment. In evaluating applications, IDED shall give supplementary credit to applicants that have developed comprehensive community and economic development plans.

23.5(8) Negotiation of awards. IDED reserves the right to negotiate award amounts, terms and conditions prior to making any award under any program.

23.5(9) Applicants shall certify their compliance with the following:

1. The Civil Rights Act of 1964 (PL 88-352) and Title VIII of the Civil Rights Act of 1968 (PL 90-284) and related civil rights, fair housing and equal opportunity statutes and orders;
2. Title I of the Housing and Community Development Act of 1974;
3. Age Discrimination Act of 1975;
4. Section 504 of the Housing and Urban Development Act of 1973;
5. Section 3 of the Housing and Urban Development Act of 1968;
6. Davis-Bacon Act (40 U.S.C. 276a-5) where applicable under Section 100 of the Housing and Community Development Act of 1974;
7. Lead-Based Paint Poisoning Prevention Act;
8. 24 CFR 58, as revised April 1, 1997, and the National Environmental Policy Act of 1969;
9. Uniform Relocation Assistance and Real Property Acquisition Act of 1979, Titles II and III;
10. Americans with Disabilities Act;
11. Section 102 of the Department of Housing and Urban Development Reform Act of 1989;
12. Contract Work Hours and Safety Act;
13. Copeland Anti-Kickback Act;
14. Department of Defense Reauthorization Act of 1986;
15. Fair Labor Standards Act;
16. Hatch Act;
17. Prohibition on the Use of Excessive Force and Barring Entrance;
18. Drug-Free Workplace Act;
19. Governmentwide Restriction on Lobbying;
20. Single Audit Act;
21. State of Iowa Citizen Participation Plan; and
22. Other relevant regulations as noted in the CDBG management guide.

261—23.6(15) Requirements for the competitive program.

23.6(1) *Restrictions on applicants.*

a. An applicant shall be allowed to submit one application per year under the water and sewer fund and one application per year under the community facilities and services fund.

b. An eligible applicant involved in a joint application (not as the lead applicant) shall be allowed to submit a separate, individual application only if the applicant is bound by a multijurisdictional agreement by state statute to provide a public service that is facilitated by the joint application and the activity proposed in the joint application is not located in the applicant's jurisdiction.

23.6(2) *Grant ceilings.* Maximum grant awards are as follows:

1. Applicants with populations of fewer than 1,000 shall apply for no more than $250,000.
2. Applicants with populations of 1,000 to 2,499 shall apply for no more than $400,000.
3. Applicants with populations of 2,500 to 14,999 shall apply for no more than $600,000.
4. Applicants with populations of 15,000 to 49,999 shall apply for no more than $800,000.

However, no recipient shall receive more than $1,000 per capita based on the total population within the recipient's jurisdiction. If a county applies on behalf of one or more unincorporated communities within its jurisdiction, the $1,000 per capita ceiling shall pertain to any project benefiting all residents of the unincorporated community or communities, not the entire unincorporated population of the county applying. Applicants shall use one of the following for population figures to determine the applicable grant ceilings: 1990 census figures, special census figures or adjusted figures based on annexation completed in accordance with statutory requirements in Iowa Code chapter 368. County populations shall be calculated for unincorporated areas only to determine applicable grant ceilings.

a. Joint applications for sewer and water projects shall be awarded no more than the cumulative joint total allowed according to the population of each jurisdiction participating in the project. For all other joint applications, an application shall be awarded no more than one and one-half times the maximum amount allowed for either of the joint applicants.

b. Applicants may apply for the maximum amount for which they are eligible under both the sewer and water fund and community facilities and services fund.

c. Applicants may apply for multiple activities under each fund for an amount up to the applicable ceilings. IDED shall review multiple activities individually.

23.6(3) *Water and sewer fund application procedure.* IDED shall announce the availability of funds and instructions for applying for funds through direct mail, public notices, media releases, workshops or other means determined necessary by IDED.

a. Application forms shall be available upon request from IDED, Bureau of Community Facilities and Services, 200 East Grand Avenue, Des Moines, Iowa 50309; telephone (515)242-4825.

b. Applicants shall submit a preapplication for review by IDED staff by a deadline established by IDED, which shall be no earlier than 60 days after the announcement of availability of funds.

c. Applicants whose preapplications best meet the following application review criteria shall be invited to submit full applications for funds:

(1) Magnitude of need for the project.

(2) Impact of the activity on standard of living or quality of life of proposed beneficiaries.

(3) Readiness to proceed with the proposed activity and likelihood that the activity can be completed in a timely fashion. Procurement of an engineer shall be considered evidence of readiness to proceed.

(4) Degree to which water and sewer fund assistance would be leveraged by other funding sources and documentation of applicant efforts to secure the maximum amount possible of local financial support for the activity.

(5) Capacity to operate and maintain the proposed activity.

(6) Capacity for continued viability of the activity after CDBG assistance.

(7) Scope of project benefit relative to the amount of CDBG funds invested.

(8) Degree to which the project promotes orderly, compact development supported by affordable public infrastructure.

d. Rescinded IAB 9/8/99, effective 10/13/99.

e. IDED shall provide by mail full application forms and instructions to the selected applicants with the invitation to apply.

f. Full applications shall be submitted by a deadline established by IDED, which shall be no earlier than 50 days after IDED issues the invitation to apply.

g. Applicants shall submit preliminary engineering reports with their full applications.

h. IDED staff may consult on proposed activities with other state agencies responsible for water- and sewer-related activities and may conduct site evaluations of proposed activities.

i. Applications selected to receive awards shall be notified by letter from the IDED director by a date determined by IDED, which shall be no later than 90 days after the application due date.

23.6(4) *Community facilities and services fund application procedure.* Each year, IDED shall announce the availability of funds and instructions for applying for funds through direct mail, public notices, media releases, workshops or other means determined necessary by IDED.

a. Application forms shall be available upon request from IDED, Bureau of Community Facilities and Services, 200 East Grand Avenue, Des Moines, Iowa 50309; telephone (515)242-4825.

b. Applicants shall submit a preapplication for review by IDED staff by a deadline established by IDED, which shall be no earlier than 60 days after the announcement of availability of funds.

c. Applicants whose preapplications best meet the following application review criteria shall be invited to submit full applications for funds:

(1) Magnitude of need for the project.

(2) Impact of the activity on standard of living or quality of life of proposed beneficiaries.

(3) Readiness to proceed with the proposed activity and likelihood that the activity can be completed in a timely fashion.

(4) Degree to which community facilities and services fund assistance would be leveraged by other funding sources and documentation of applicant efforts to secure the maximum amount possible of local financial support for the activity.

(5) Capacity to operate and maintain the proposed activity.

(6) Capacity for continued viability of the activity after CDBG assistance.

(7) Scope of project benefit relative to the amount of CDBG funds invested.

(8) Degree to which the project promotes orderly, compact development supported by affordable public infrastructure.

d. IDED shall provide by mail full application forms and instructions to the selected applicants with the invitation to apply.

e. Full applications shall be submitted by a deadline established by IDED, which shall be no earlier than 50 days after IDED issues the invitation to apply.

f. IDED staff may consult on proposed activities with other state agencies responsible for community facilities and services-related activities and may conduct site evaluations of proposed activities.

g. Applications selected to receive awards shall be notified by letter from the IDED director by a date determined by IDED, which shall be no later than 90 days after the application due date.

23.6(5) *Contingent funding.* IDED may make awards contingent upon receipt of funding from other sources.

23.6(6) *Negotiation of awards.* IDED reserves the right to negotiate award amounts and terms.

261—23.7(15) Requirements for the economic development set-aside fund.

23.7(1) *Restrictions on applicants.*

a. Applicants shall apply only for direct loans or forgivable loans to make to private businesses for the creation of new jobs or the retention of existing jobs that would otherwise be lost.

b. The maximum grant award for individual business assistance applications from any city or county is $500,000 per application.

c. The average starting wage of jobs to be created or retained by a proposed project shall meet or exceed the greater of 75 percent of the average county wage scale or $7 an hour.

d. At least 51 percent of the permanent jobs created or retained by the proposed project shall be taken by or made available through first consideration activities to persons from low- and moderate-income families.

e. Projects must maintain a minimum ratio of one permanent job created or retained for every $10,000 in CDBG funds awarded.

f. Terms of conventional loans proposed for the project must be consistent with terms generally accepted by conventional financial institutions.

g. Applications must provide evidence of adequate private equity.

h. Applications must provide evidence that the EDSA funds requested are necessary to make the proposed project feasible and that the business requesting assistance can continue as a going concern in the foreseeable future if assistance is provided.

i. IDED shall not consider applications proposing business relocation from within the state unless evidence exists of unusual circumstances that make the relocation necessary for the business' viability.

j. No significant negative land use or environmental impacts shall occur as a result of the project.

23.7(2) *Application procedure.* Application forms and instructions shall be available upon request from IDED, Bureau of Business Financing, 200 East Grand Avenue, Des Moines, Iowa 50309; telephone (515)242-4825. An original and two copies of completed applications with required attachments shall be submitted to the same address. IDED shall accept EDSA applications at any time and shall review applications on a continuous basis. IDED shall take action on submitted applications within 60 days of receipt. Action may include funding the application for all or part of the requested amount, denying the applicant's request for funding or requesting additional information from the applicant for consideration before a final decision is made.

23.7(3) *Review criteria.* IDED shall review applications and make funding decisions based on the following criteria:

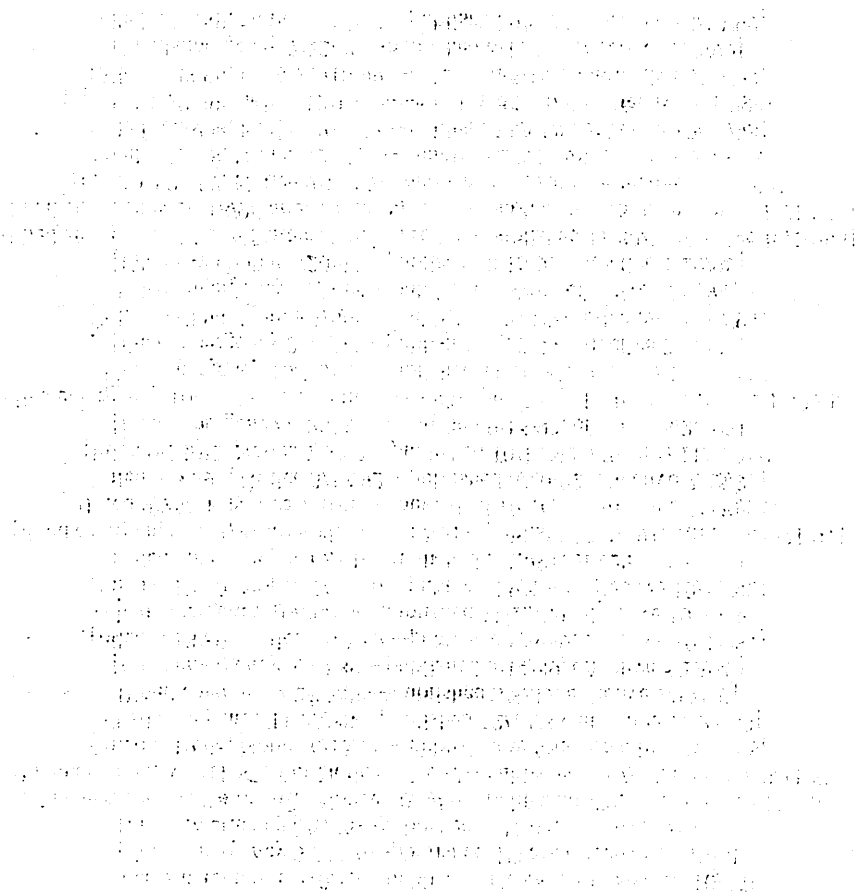
1. Impact of the project on the community.
2. Appropriateness of the jobs to be created or retained by the proposed project.
3. Appropriateness of the proposed wage and benefit package available to employees in jobs created or retained by the proposed project.
4. Degree to which EDSA funding would be leveraged by private investment.
5. Degree of demonstrated business need.

In evaluating applications, IDED shall give supplementary credit to applicants who have executed a good neighbor agreement with the business to be assisted.

IDED may conduct site evaluations of proposed projects.

[Filed emergency 10/10/85—published 11/6/85, effective 10/10/85]
[Filed emergency 3/21/86—published 4/9/86, effective 3/21/86]
[Filed emergency 8/8/86—published 8/27/86, effective 8/8/86]*
[Filed emergency 11/14/86 after Notice 10/8/86—published 12/3/86, effective 11/14/86]
[Filed emergency 9/11/87 after Notice 7/29/87—published 10/7/87, effective 9/11/87]
[Filed 8/19/88, Notice 6/15/88—published 9/7/88, effective 10/12/88]
[Filed emergency 11/23/88—published 12/14/88, effective 11/23/88]
[Filed emergency 2/17/89—published 3/8/89, effective 2/17/89]
[Filed emergency 5/19/89—published 6/14/89, effective 5/19/89]
[Filed 8/18/89, Notice 7/12/89—published 9/6/89, effective 10/11/89]
[Filed emergency 10/20/89—published 11/15/89, effective 10/20/89]
[Filed 8/17/90, Notice 7/11/90—published 9/5/90, effective 10/10/90]
[Filed emergency 4/19/91—published 5/15/91, effective 4/19/91]
[Filed emergency 6/21/91 after Notice 4/17/91—published 7/10/91, effective 6/21/91]
[Filed 9/25/91, Notice 7/10/91—published 10/16/91, effective 11/20/91]
[Filed 5/22/92, Notice 3/18/92—published 6/10/92, effective 7/15/92]
[Filed 9/23/92, Notice 7/8/92—published 10/14/92, effective 11/18/92]
[Filed emergency 8/20/93—published 9/15/93, effective 8/20/93]
[Filed emergency 10/22/93 after Notice 8/18/93—published 11/10/93, effective 10/22/93]
[Filed emergency 10/22/93—published 11/10/93, effective 10/22/93]
[Filed emergency 3/17/94—published 4/13/94, effective 3/18/94]
[Filed 8/19/94, Notice 7/6/94—published 9/14/94, effective 10/19/94]
[Filed emergency 12/8/94—published 1/4/95, effective 12/8/94]
[Filed emergency 1/20/95—published 2/15/95, effective 1/20/95]
[Filed emergency 10/24/95 after Notice 8/16/95—published 11/8/95, effective 10/24/95]
[Filed emergency 10/18/96 after Notice 9/11/96—published 11/6/96, effective 10/18/96]
[Filed 10/23/97, Notice 9/10/97—published 11/19/97, effective 12/24/97]
[Filed 1/23/98, Notice 12/17/97—published 2/11/98, effective 3/18/98]
[Filed 8/20/98, Notice 7/15/98—published 9/9/98, effective 10/14/98]
[Filed 1/22/99, Notice 12/16/98—published 2/10/99, effective 3/17/99]
[Filed 4/28/99, Notice 3/10/99—published 5/19/99, effective 6/23/99]
[Filed emergency 7/22/99—published 8/11/99, effective 7/23/99]
[Filed 8/20/99, Notice 6/16/99—published 9/8/99, effective 10/13/99]

*See IAB Economic Development Department.



CHAPTER 65
RECREATION, ENVIRONMENT, ART AND CULTURAL HERITAGE INITIATIVE (REACH) — COMMUNITY ATTRACTION AND TOURISM DEVELOPMENT PROGRAM

261—65.1(78GA,HF772) Purpose. The community attraction and tourism development program, a component of the recreation, environment, art and cultural heritage initiative (REACH), is designed to assist communities in the development and creation of multiple-purpose attraction and tourism facilities.

261—65.2(78GA,HF772) Definitions. When used in this chapter, unless the context otherwise requires:

"Activity" means one or more specific activities or projects assisted with community attraction and tourism development funds.

"Attraction" means a permanently located recreational, cultural, or entertainment activity, or event that is available to the general public.

"Community" or *"political subdivision"* means a city or county, or an entity established pursuant to Iowa Code chapter 28E.

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

"Economic development organization" means an entity organized to position a community to take advantage of economic development opportunities and strengthen a community's competitiveness as a place to work and live.

"Float loan" means a short-term loan (maximum of 30 months) from obligated but unexpended funds.

"Fund" means the community attraction and tourism fund established pursuant to 1999 Iowa Acts, House File 772, section 3(2).

"Loan" means an award of assistance with the requirement that the award be repaid with term, interest rate, and other conditions specified as part of the award. A deferred loan is one for which the payment of principal, interest, or both, is not required for some specified period. A forgivable loan is one for which repayment is eliminated in part or entirely if the borrower satisfies specified conditions.

"Local support" means endorsement by local individuals or entities that have a substantial interest in a project, particularly by those whose opposition or indifference would hinder the activity's success.

"Private organization" means a corporation, partnership, or other organization that is operated for profit.

"Public organization" means a not-for-profit economic development organization or other not-for-profit organization that sponsors or supports community or tourism attractions and activities.

"Recipient" means the entity under contract with IDED to receive community attraction and tourism development funds and undertake the funded activity.

"Subrecipient" means a private organization or other entity operating under an agreement or contract with a recipient to carry out a funded community attraction and tourism development activity.

"Vertical infrastructure" means land acquisition and construction, major renovation and major repair of buildings, all appurtenant structures, utilities, site development, and recreational trails. "Vertical infrastructure" does not include routine, recurring maintenance or operational expenses or leasing of a building, appurtenant structure, or utility without a lease-purchase agreement.

261—65.3(78GA,HF772) Program components and eligibility requirements. There are three direct components to the community attraction and tourism development program. The first component relates to community attraction, tourism or leisure activities that are sponsored by political subdivisions and public organizations. This component is referred to as the community attraction component. The second component relates to the encouragement and creation of public-private partnerships for exploring the development of new community tourism and attraction activities. This component is referred to as the project development component. A third component provides community attraction and tourism development funds for interim financing for eligible activities under the community attraction component. This component is referred to as the interim financing component.

65.3(1) *Community attraction component.* The objective of the community attraction component is to provide financial assistance for community-sponsored attraction and tourism activities. Community attraction activities may include but are not limited to the following: museums, theme parks, cultural and recreational centers, sports arenas and other attractions.

65.3(2) *Project development component.* The department, at its discretion, may also provide funding for project development related to proposed activities under this program. Project development assistance could be for the purpose of assisting in departmental evaluation of proposals, or could be one of the proposed activities in a funding request whose further project development could reasonably be expected to lead to an eligible community attraction and tourism development activity. Feasibility studies are eligible for assistance under this component.

65.3(3) *Interim financing component.*

a. The objective of the community attraction and tourism development interim financing component is to provide short-term financial assistance for eligible community attraction and tourism activities. Financial assistance may be provided as a float loan. A float loan may be made only for activities that can provide the department with an irrevocable letter of credit or equivalent security instrument from a lending institution rated AA or better, assignable to IDED in an amount equal to or greater than the principal amount of the loan.

b. Applications for float loans shall be processed, reviewed and considered on a first-come, first-served basis to the extent funds are available. Applications that are incomplete or require additional information, investigation or extended negotiation may lose funding priority. Applications for float loans shall meet all other criteria required for the community attraction component.

261—65.4(78GA,HF772) Allocation of funds.

65.4(1) Except as otherwise noted in this rule, all community attraction and tourism development funds shall be awarded for activities as specified in rule 65.3(78GA,HF772).

65.4(2) IDED may retain a portion of community attraction and tourism development funds for administrative costs associated with program implementation and operation. The percent of funds retained for administrative costs shall not exceed 1 percent in any year.

65.4(3) For the fiscal year beginning July 1, 1999, $400,000 is allocated from the fund to be used to provide grants to up to three political subdivisions, in an amount not to exceed $200,000 per grant. The purpose of the three grants is to study the feasibility and viability of developing and creating a multiple-purpose attraction and tourism facility.

261—65.5(78GA,HF772) Eligible applicants. Eligible applicants for community attraction and tourism development funds include political subdivisions and public organizations.

65.5(1) Any eligible applicant may apply directly or on behalf of a subrecipient.

65.5(2) Any eligible applicant may apply individually or jointly with another eligible applicant or other eligible applicants.

261—65.6(78GA,HF772) Eligible activities and forms of assistance—all components.

65.6(1) Eligible activities include those which are related to a community or tourism attraction, and which would position a community to take advantage of economic development opportunities in tourism and strengthen a community's competitiveness as a place to work and live. Eligible activities include building construction or reconstruction, rehabilitation, conversion, acquisition, demolition for the purpose of clearing lots for development, site improvement, equipment purchases, and other activities as may be deemed appropriate by IDED.

65.6(2) Eligible forms of assistance include grants, interest-bearing loans, non-interest-bearing loans, float loans under the interim financing component, interest subsidies, deferred payment loans, forgivable loans, loan guarantees, or other forms of assistance as may be approved by IDED.

65.6(3) Financial assistance for an eligible activity may be provided in the form of a multiyear award to be paid in increments over a period of years, subject to the availability of funds.

65.6(4) IDED reserves the right to negotiate the amount and terms of an award.

65.6(5) Recipients may use community attraction and tourism funds in conjunction with other sources of funding including the local recreation infrastructure grants program administered by the department of natural resources and the Iowa historic site preservation program administered by the department of cultural affairs. IDED may consult with appropriate staff from the department of cultural affairs and the department of natural resources to coordinate the review of applications under the programs.

261—65.7(78GA,HF772) Ineligible projects.

65.7(1) The department shall not approve an application for assistance under this program to refinance an existing loan.

65.7(2) An applicant may not receive more than one award under this program for a single project. However, previously funded projects may receive an additional award(s) if the applicant demonstrates that the funding is to be used for a significant expansion of the project, a new project, or a project that results from previous project-development assistance.

65.7(3) The department shall not approve an application for assistance in which community attraction and tourism development funding would constitute more than 50 percent of the total project costs. A portion of the resources provided by the applicant for project costs may be in the form of in-kind or noncash contributions.

261—65.8(78GA,HF772) Threshold application requirements. To be considered for funding under the community attraction and tourism development program, an application must meet the following threshold requirements:

65.8(1) There must be demonstrated local support for the proposed activity.

65.8(2) A need for community attraction and tourism development program funds must exist after other financial resources have been identified for the proposed activity.

65.8(3) Some portion of the proposed activity must involve the creation or renovation of vertical infrastructure.

261—65.9(78GA,HF772) Application review criteria. Applications meeting the threshold requirements of rule 65.8(78GA,HF772) will be reviewed by IDED staff. IDED staff shall evaluate and rank applications based on the following criteria:

65.9(1) *Feasibility.* The feasibility of the existing or proposed facility to remain a viable enterprise (0-25 points). Rating factors for this criterion include, but are not limited to, the following: initial capitalization, project budget, financial projections, marketing analysis, marketing plan, management team, and operational plan. In order to be eligible for funding, proposals must score at least 15 points on this rating factor.

65.9(2) *Economic impact (0-25 points).* Number of jobs created and other measure of economic impact including long-term tax generation. The evaluation of the economic impact of a proposed activity shall also include a review of the wages, benefits, including health benefits, safety, and other attributes of the activity that would improve the quality of attraction and tourism employment in the community. Additionally, the economic impact of an activity may also be reviewed based on the degree to which the activity enhances the quality of life in a community and contributes to the community's efforts to retain and attract a skilled workforce. In order to be eligible for funding, proposals must score at least 15 points on this rating factor.

65.9(3) *Leveraged activity.* The degree to which the facility will stimulate the development of other community attraction and tourism activities (0-25 points). In order to be eligible for funding, proposals must score at least 15 points on this rating factor.

65.9(4) *Geographic diversity.* The extent to which facilities are located in different regions of the state (0-10 points).

65.9(5) *Local match.* The proportion of local match to be contributed to the project, and the extent of public and private participation (0-15 points).

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

261—65.10(78GA,HF772) Application procedure. Subject to availability of funds, applications are reviewed and rated by IDED staff on an ongoing basis. Applications will be reviewed by staff for completeness and eligibility. If additional information is required, the applicant shall be provided with notice, in writing, to submit additional information. The IDED staff may refer applications to the project development component, subject to the availability of funds. Recommendations from the IDED staff will be submitted to the director of the department for final approval, denial or deferral.

65.10(1) Application forms shall be available upon request from IDED, 200 East Grand Avenue, Des Moines, Iowa 50309; telephone (515)242-4770.

65.10(2) IDED may provide technical assistance to applicants as necessary. IDED staff may conduct on-site evaluations of proposed activities.

65.10(3) A comprehensive business plan must accompany the application and shall include at least the following information: initial capitalization including a description of sources of funding, project budget, financial projections, marketing analysis, marketing plan, management team, and the operational plan including a time line for implementing the activity. Additionally, applicants shall also provide the following information: the number of jobs to be created, and the wages and benefits associated with those jobs; direct measures of economic impact including long-term tax generation, but excluding the use of economic multipliers; a description of the current attraction and tourism employment opportunities in the community including information about wages, benefits and safety; and a description of how the activity will enhance the quality of life in a community and contribute to the community's efforts to retain and attract a skilled workforce.

261—65.11(78GA,HF772) Administration.

65.11(1) *Administration of awards.*

a. A contract shall be executed between the recipient and IDED. These rules and applicable state laws and regulations shall be part of the contract.

b. The recipient must execute and return the contract to IDED within 45 days of transmittal of the final contract from IDED. Failure to do so may be cause for IDED to terminate the award.

c. Certain activities may require that permits or clearances be obtained from other state or local agencies before the activity may proceed. Awards may be conditioned upon the timely completion of these requirements.

d. Awards may be conditioned upon commitment of other sources of funds necessary to complete the activity.

e. Awards may be conditioned upon IDED receipt and approval of an implementation plan for the funded activity.

65.11(2) *Requests for funds.* Recipients shall submit requests for funds in the manner and on forms prescribed by IDED. Individual requests for funds shall be made in an amount equal to or greater than $500 per request, except for the final draw of funds.

65.11(3) *Record keeping and retention.* The recipient shall retain all financial records, supporting documents and all other records pertinent to the community attraction and tourism development activity for three years after contract closeout. Representatives of IDED shall have access to all records belonging to or in use by recipients pertaining to community attraction and tourism development funds.

65.11(4) *Performance reports and reviews.* Recipients shall submit performance reports to IDED in the manner and on forms prescribed by IDED. Reports shall assess the use of funds and progress of activities. IDED may perform any reviews or field inspections necessary to ensure recipient performance.

65.11(5) *Amendments to contracts.* Any substantive change to a contract shall be considered an amendment. Changes include time extensions, budget revisions and significant alteration of the funded activities that change the scope, location, objectives or scale of the approved activity. Amendments must be requested in writing by the recipient and are not considered valid until approved in writing by IDED following the procedure specified in the contract between the recipient and IDED.

65.11(6) *Contract closeout.* Upon contract expiration, IDED shall initiate contract closeout procedures.

65.11(7) *Compliance with state and local laws and regulations.* Recipients shall comply with these rules, with any provisions of the Iowa Code governing activities performed under this program and with applicable local regulations.

65.11(8) *Remedies for noncompliance.* At any time before contract closeout, IDED may, for cause, find that a recipient is not in compliance with the requirements of this program. At IDED's discretion, remedies for noncompliance may include penalties up to and including the return of program funds to IDED. Reasons for a finding of noncompliance include but are not limited to the recipient's use of funds for activities not described in the contract, the recipient's failure to complete funded activities in a timely manner, the recipient's failure to comply with applicable state or local rules or regulations or the lack of a continuing capacity of the recipient to carry out the approved activity in a timely manner.

These rules are intended to implement 1999 Iowa Acts, House File 772, section 3, subsection 2, and sections 23 and 24.

[Filed emergency 6/18/99—published 7/14/99, effective 7/1/99]
[Filed 8/20/99, Notice 7/14/99—published 9/8/99, effective 10/13/99]

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CHAPTER 78
STANDARDS FOR GRADUATE PRACTITIONER PREPARATION PROGRAMS

[Prior to 9/7/88, see Public Instruction Department[670]Ch 77]

281—78.1(256) General statement. Graduate programs of practitioner preparation leading to licensure in Iowa are subject to approval by the Iowa state board of education as provided in Iowa Code chapter 272.

281—78.2(256) Definitions. For purposes of clarity, the following definitions are used throughout the chapter:

"Department" means department of education.

"Director" means director of education.

"Graduate practitioner preparation programs" means the graduate programs of practitioner preparation leading to licensure.

"Institution" means a college or university in Iowa offering graduate study and which is seeking state board approval of its graduate practitioner preparation program(s).

"Program" means a specific field of specialization leading to a specific endorsement.

"State board" means Iowa state board of education.

"Unit" means the organizational entity within an institution with the responsibility of administering the graduate practitioner preparation program(s).

281—78.3(256) Institutions affected. All Iowa colleges and universities offering graduate study and which are seeking state board approval of their graduate practitioner preparation programs shall meet the standards contained in this chapter.

281—78.4(256) Criteria for graduate practitioner preparation programs. Each institution seeking approval of its graduate practitioner preparation programs shall file evidence of the extent to which it meets the standards contained in this chapter by means of a self-evaluation report.

After the state board has approved the graduate practitioner preparation programs filed by an institution, students who complete such programs and are recommended by the authorized official of that institution will be issued the appropriate license and endorsement(s).

281—78.5(256) Approval of graduate practitioner preparation programs. Approval of institutions' graduate practitioner preparation programs by the state board shall be based on the recommendation of the director after study of the factual and evaluative evidence on record about each program in terms of the standards contained in this chapter. Approval if granted shall be for a term of five years; however, approval for a lesser term may be granted by the state board if it determines conditions so warrant.

If approval is not granted, the applying institution will be advised concerning the areas in which improvement or changes appear to be essential for approval. In this case, the institution shall be given the opportunity to present factual information concerning its programs at the next regularly scheduled meeting of the state board. The institution may also reapply at its discretion when it is ready to show what actions have been taken along the lines of suggested improvement.

281—78.6(256) Visiting teams. Upon application for approval, a team shall visit each institution for evaluation of its graduate practitioner preparation programs. The membership of the team shall be selected by the practitioner preparation and licensure bureau with the concurrence of the institution being visited. The team may include faculty members of other practitioner preparation institutions within or outside the state; personnel from elementary and secondary schools, to include classroom practitioners; personnel of the department and representatives from professional education organizations. Each team member should have appropriate competencies, background, and experiences to enable the member to contribute to the evaluation visit. The expenses for the visiting team shall be borne by the institution.

281—78.7(256) Periodic reports. Institutions placed on the approved programs list may be asked to make periodic reports upon the request of the department which shall provide basic information necessary to keep records of each graduate practitioner preparation program up to date, and to provide such information that will be necessary to carry out research studies relating to practitioner preparation.

281—78.8(256) Reevaluation of graduate practitioner preparation programs. An institution shall file a self-evaluation of its graduate practitioner preparation programs at any time deemed necessary by the director. Any action for continued approval or rescission of approval shall be approved by the state board.

281—78.9(256) Approval of program changes. Upon application by an institution, the director is authorized to approve minor additions to, or changes within, the institution's approved graduate practitioner preparation program.

When an institution proposes a revision which exceeds the primary scope of its programs, the revision shall become operative only after having been approved by the state board.

281—78.10(256) Institutional standards. The institution shall:

1. Be organized such that it ensures consistent policies and practices with reference to the different segments of the graduate practitioner preparation program regardless of the administrative units under which they operate, and facilitates the continuing development and improvement of the graduate practitioner preparation program.
2. Be organized such that the responsibility for the administration and coordination of graduate practitioner preparation programs is assigned to one individual and this responsibility is clearly outlined and identified.
3. Be organized such that the person so assigned in paragraph "2" or a designee is responsible for recommending students for Iowa licensure and endorsements, and there shall be announced and written policies of procedures followed in recommending students for Iowa licensure and endorsements.
4. Be organized such that it designates the unit within the institution charged with the responsibility and authorization to act within the framework of institutional policy, on all matters relating to graduate practitioner preparation programs.
5. Have the financial resources available to support the scope of the graduate practitioner preparation programs offered.

281—78.11(256) Organization standards—the unit.

1. Responsibility for ensuring the quality of the various graduate practitioner preparation programs within an institution shall be centralized and vested in a single designated administrative unit.
2. Responsibilities for the administration of a continuing program of curriculum development, evaluation, and revisions for graduate practitioner preparation programs shall be centralized in a designated administrative unit.
3. The unit shall design and implement a plan for continuous evaluation of students as they progress through the graduate practitioner preparation programs.
4. The unit shall maintain a system of student records for those enrolled in graduate practitioner preparation programs.
5. The unit shall monitor the use of part-time faculty in order to prevent the fragmentation of instruction in graduate practitioner preparation programs.
6. The unit shall evaluate instruction and such evaluation shall be made in terms of instructional competence to provide the programs for which approval is sought.

281—78.12(256) Graduate student standards.

1. There shall be announced and written policies and criteria for admission to each graduate practitioner preparation program.
2. There shall be announced and written policies and criteria for retention in each graduate practitioner preparation program.
3. Graduate students in practitioner preparation shall have available to them advisory services. The advisory system shall reflect attention to individual student potentialities.
4. Graduate students in practitioner preparation shall have the opportunity through a formal means to express their views regarding the graduate practitioner preparation programs offered and their views shall be considered in the development and modification of graduate practitioner preparation programs.

281—78.13(256) Graduate practitioner preparation faculty standards.

1. Faculty members involved in graduate practitioner preparation programs leading to licensure shall have preparation and have had experiences in situations similar to those for which the graduate practitioner preparation students are being prepared.
2. Faculty members involved in graduate practitioner preparation programs leading to licensure shall have and maintain an ongoing involvement in activities in elementary, middle, and secondary schools.
3. Faculty members involved in graduate practitioner preparation programs leading to licensure shall be provided opportunities, through faculty development, to grow professionally through participation in activities related to their assignments.
4. Faculty members involved in graduate practitioner preparation programs leading to licensure shall be provided conditions essential to carry out effective performance; such conditions shall include policies establishing maximum limits for teaching and supervisory loads and other assigned responsibilities.
5. Part-time faculty involved in graduate practitioner preparation programs leading to licensure shall meet the requirements for appointment to the full-time faculty or are employed on a proportionate basis when they can make a contribution to the graduate practitioner preparation programs.

281—78.14(256) Graduate resources and facilities standards.

1. The library shall serve as the principal material resource center for instruction, research, and other services pertinent to the graduate practitioner preparation programs; library administrative procedures and equipment shall conform to accepted media practices, including cataloging methods, adequate hours of accessibility; the library shall be administered by professionally prepared personnel.
2. A materials laboratory or center shall be maintained either as part of the library or as a separate entity. It shall be available to students and faculty as a laboratory of materials of instruction, contain an array of media, technology, and materials commonly used in elementary, middle, and secondary schools, and shall be administered by professionally prepared personnel.
3. Classrooms, offices, clerical assistance, equipment, and similar resources essential for graduate practitioner preparation shall be provided to support the scope of graduate practitioner preparation programs being offered.

281—78.15(256) Curriculum standards.

1. Each graduate practitioner preparation program leading to licensure shall be built upon a statement of purposes and objectives of teaching/serving in the area of the school curriculum.
2. Each graduate practitioner preparation program leading to licensure shall be designed to meet the guidelines established by the state board.

3. Curriculum development for each graduate practitioner preparation program leading to licensure shall make provision for enlisting the cooperation and participation of representatives of local school systems, college practitioners in fields related to the area of specialization, professional associations, and appropriate committees.

4. Each graduate practitioner preparation program leading to licensure shall require scholarship beyond that achieved in undergraduate education; therefore, each program shall provide for maintaining quality of this scholarship.

5. Each graduate practitioner preparation program leading to licensure designed for the development of initial competence in teaching or in an area of educational specialization shall include a program of supervised practical experience in the function for which the student is being prepared. These experiences shall be designed both to develop competency and to serve as a basis for evaluating performance. Time for both on-campus and off-campus experiences shall be provided.

6. Each graduate practitioner preparation program leading to licensure shall be built on a statement of the courses or competencies needed by students to teach or serve in the appropriate area of the school program or curriculum.

281—78.16(256) Graduate practitioner preparation evaluation standards.

1. The unit shall define and implement procedures to assess the quality of its graduates when they complete the graduate practitioner preparation program and apply for recommendation for licensure and entry into the profession.

2. The unit shall define and implement procedures to evaluate the graduates from graduate practitioner preparation programs after they enter their professional roles. Such evaluation shall determine the adequacy of their preparation and their competence to perform in the role for which they were prepared.

3. The unit shall show evidence that results of evaluation of graduates and their performance are used to modify and improve the graduate programs in practitioner preparation.

These rules are intended to implement Iowa Code chapter 256.

[Filed 3/7/86, Notice 11/6/85—published 3/26/86, effective 10/1/88]
[Filed 8/19/88, Notice 6/29/88—published 9/7/88, effective 10/12/88]
[Filed 12/19/91, Notice 10/30/91—published 1/8/92, effective 2/12/92]
[Filed 1/15/93, Notice 10/28/92—published 2/3/93, effective 3/10/93]

CHAPTER 79
COACHING AUTHORIZATION

[Prior to 9/7/88, see Public Instruction Department[670] Ch 65]
[Transferred to Educational Examiners[282] Ch 19, IAB 10/3/90, effective 9/14/90]

CHAPTER 80
EVALUATOR APPROVAL

[Prior to 9/7/88, see Public Instruction Department[670]Ch 81]
[Transferred to Educational Examiners[282] Ch 20, IAB 10/3/90, effective 9/14/90]

CHAPTER 81
REQUIREMENTS FOR SPECIAL EDUCATION ENDORSEMENTS

[Prior to 9/7/88, see Education Department[281]Ch 73]
[Transferred to Educational Examiners[282] Ch 15, IAB 10/3/90, effective 9/14/90]

CHAPTER 82
OCCUPATIONAL AND POSTSECONDARY CERTIFICATION AND ENDORSEMENTS

[Prior to 9/7/88, see Education Department[281]Ch 74]
[Transferred to Educational Examiners[282] Ch 16, IAC 10/3/90, effective 9/14/90]

CHAPTER 83
BEGINNING TEACHER INDUCTION PROGRAM

281—83.1(78GA,SF464) Purpose. The beginning teacher induction program is available to Iowa school districts as a means to promote excellence in teaching, build a supportive environment within school districts, increase the retention of promising beginning teachers, and promote the personal and professional well-being of teachers.

281—83.2(78GA,SF464) Definitions. For the purpose of these rules, the following definitions shall apply:

"Beginning teacher" means an individual serving under an initial provisional or conditional license, issued by the board of educational examiners under Iowa Code chapter 272, who is assuming a position as a classroom teacher new to the profession of teaching.

"Board" means the board of directors of a school district or a collaboration of boards of directors of school districts.

"Classroom teacher" means an individual who holds a valid practitioner's license under Iowa Code chapter 272 and who is employed under a teaching contract with a school district or area education agency in the state of Iowa.

"Department" means the department of education.

"District facilitator" means a professional licensed in Iowa who is appointed by a board to serve as the liaison between the board and the department for the beginning teacher induction program.

"Mentor" means an individual who holds a valid practitioner's license under Iowa Code chapter 272 and who is employed under a teaching contract with a school district or area education agency in the state of Iowa. This individual has been selected and trained to be a mentor. The individual must have a record of four years of successful teaching practice, must be employed as a classroom teacher on a nonprobationary basis, and must demonstrate professional commitment to the improvement of teaching and learning, and the development of beginning teachers.

"School district" means a public school district.

281—83.3(78GA,SF464) Program requirements.

83.3(1) *Area education agency models.* An area education agency shall prepare a model beginning teacher induction program plan and shall provide the model plan to each school district within its area. The plan shall include a model evaluation component by which a school district may measure the effectiveness of its program. The area education agency shall be responsible for monitoring effective practices, integrating those effective practices into the model, and continually updating the model based on those practices. The model shall include the components contained in the state-funded induction program.

83.3(2) *Eligibility.* All school districts are eligible to apply for funding. School districts eligible for the beginning induction program shall meet all of the following:

a. District plan. A school district that wishes to participate in the program shall have the board adopt a beginning teacher induction program plan and written procedures for the program. At the board's discretion, the district may choose to use or revise the model plan provided by the area education agency or develop a plan locally. The components of a district written induction program shall include, but are not limited to, the following:

(1) Goals for the program.

(2) A process for the selection of mentors.

(3) A description of the mentor training process which shall:

1. Be consistent with effective staff development practices and adult professional needs.
2. Describe mentor needs, indicating a clear understanding of the role of the mentor.
3. Demonstrate the mentor's understanding of the needs of new teachers.

4. Demonstrate the mentor's understanding of the district expectations for all teachers.
5. Facilitate the mentor's ability to provide guidance and support to new teachers.

(4) A description of the supportive organizational structure for beginning teachers which shall include:

1. The activities that shall provide access and opportunities for interaction between mentor and beginning teacher.
2. The identification of who will be in the mentor/beginning teacher partnership.
3. Supportive actions of the district.
4. The name of the district facilitator.

(5) The evaluation process for the program, which shall include:

1. The periodic assessment and monitoring of the mentor and beginning teacher program to address both summative and formative evaluation strategies.
2. District participation in the state evaluation of the beginning teacher induction program.
3. Evaluation strategies which shall include an evaluation of the district program goals, an evaluation process that provides for the minor and major program revisions and a process for how information about the program will be provided to interested stakeholders.

(6) The process for dissolving mentor and beginning teacher partnerships.

(7) A plan that reflects the needs of the beginning teacher employed by the district.

(8) Activities recommended to meet the needs of beginning teachers. Examples include:

1. Managing the classroom.
2. Acquiring information about the school system.
3. Obtaining instructional resources and materials.
4. Planning, organizing, and managing instruction and other professional responsibilities.
5. Assessing students and evaluating student progress.
6. Motivating students.
7. Using effective teaching methods.
8. Dealing with individual students' needs, interests, abilities, and problems.
9. Communicating and collaborating with colleagues, including administrators, supervisors, and other teachers.
10. Communicating with parents.
11. Adjusting to the teaching environment and role.
12. Receiving emotional support.

(9) Budget.

b. District facilitator. A district must engage a board-appointed facilitator. Duties of the facilitator shall include, but not be limited to, the following:

(1) Submits the proposed board plan and proposed costs to the board and the department.
(2) Oversees the implementation of the board plan.
(3) Ensures that the plan meets the goals of the program as set forth in the board plan.
(4) Works collaboratively with the area education agency and postsecondary institutions in preparation and implementation of the board plan.
(5) Places beginning teachers participating in the program in a manner that provides the opportunity to work with at least one mentor. Whenever possible, there should be opportunities to work with other mentors in the district.
(6) Acts as a liaison between the district and the department.
(7) Submits the annual report on program results to the department.

281—83.4(78GA,SF464) Program approval. Any district participating in the state-funded induction program must submit an application according to the components established in these rules. Programs shall be approved according to criteria established by the department to determine quality.

281—83.5(78GA,SF464) Funding for approved programs. The process to be followed in determining the amount of funds to be approved for this competitive program grant will be described in the grant application. The review criteria and point allocation for each criterion will also be described in the grant application material. The membership of the funding review committee shall be determined by the appropriate division administrator. The review committee members shall allocate points per review criterion when conducting the review. In the event the number of approved programs exceeds available funding, the department will award grants based on the geographic and district population of the school districts with approved plans. A district may receive funding for subsequent years if it has an approved plan on file with the department and also submits any additional program improvements or updates that have been implemented by the district.

281—83.6(78GA,SF464) Beginning teacher induction program budget. Funds received by a school district from the beginning teacher induction program shall be used for any or all of the following purposes:

1. To pay mentors as they implement the plan. A mentor in a beginning teacher induction program approved under this chapter shall be eligible for an award of $500 per semester, at a minimum, for full participation in the program.
2. To provide for a stipend for the district facilitator.
3. To pay any applicable costs of the employer's share of contributions to federal social security and the Iowa public employees' retirement system for a pension and annuity retirement system established under Iowa Code chapter 294 for such amounts paid by the district.

These funds are miscellaneous funds or are considered encumbered. A school district shall maintain a separate listing within its budget for payments received and expenditures made for this program. Funds that remain unencumbered or unobligated at the end of the fiscal year will not revert, but will remain available for expenditure for the purposes of the program until the close of the succeeding fiscal year.

281—83.7(78GA,SF464) Appeal of grant denial or termination. Any applicant for beginning teacher induction program grant funds may appeal the denial of a properly submitted competitive program grant application or the unilateral termination of a competitive program grant to the director of the department. Appeals must be in writing and received within ten working days of the date of the notice of decision and must be based on a contention that the process was conducted outside of statutory authority; violated state or federal law, policy or rule; did not provide adequate public notice; was altered without adequate public notice; or involved conflict of interest by staff or committee members. The hearing and appeal procedures found in 281—Chapter 6 that govern the director's decisions shall be applicable to any appeal of denial or termination. In the notice of appeal, the grantee shall give a short and plain statement of the reasons for the appeal. The director shall issue a decision within a reasonable time, not to exceed 60 days from the date of the hearing.

281—83.8(78GA,SF464) Annual report. The board implementing an approved beginning teacher induction program will submit an assessment of the evaluation strategies on forms secured from the department by each July 1 of the fiscal year succeeding the year in which the school district received funding. Each district receiving funding must report the results of the state evaluation. The department will annually report the statewide results of the program to the chairpersons and ranking members of the senate and house education committees by January 1.

These rules are intended to implement 1999 Iowa Acts, Senate File 464, sections 22 to 26.

[Filed emergency 8/16/99—published 9/8/99, effective 8/20/99]

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CHAPTER 84
FINANCIAL INCENTIVES FOR NATIONAL BOARD CERTIFICATION

281—84.1(256) Purpose. National Board Certification (NBC) is available to teachers nationwide and requires candidates to demonstrate their teaching practice as measured against high and rigorous standards. NBC teachers enhance the educational experience of their students and motivate fellow teachers towards excellence in classroom teaching. These rules implement the two financial incentive pilot programs enacted by the Iowa legislature to increase the number of NBC teachers in Iowa.

281—84.2(256) Definitions. For the purpose of these rules, the following definitions shall apply:

"A person receives a salary as a classroom teacher" means a teacher employed by a school district in Iowa who receives any salary compensation from the school district for providing classroom instruction to students in the school district.

"Department" means the state department of education.

"Director" means the director of the state department of education.

"Employed by a school district in Iowa" means a teacher employed in a nonadministrative position in an Iowa school district pursuant to a contract issued by a board of directors of a school district under Iowa Code section 279.13 and any full-time permanent substitute teacher employed under individual contracts not included under Iowa Code section 279.13 but who is receiving retirement and health benefits as part of the substitute teacher's contract.

"National Board Certification (NBC)" is a nationwide certification program administered by the National Board for Professional Teaching Standards. The certification program requires candidates to participate in a rigorous two-part assessment consisting of portfolio entries and assessment center exercises.

"National Board for Professional Teaching Standards (NBPTS)" is a private nonprofit organization whose goal is to develop professional standards for early childhood, elementary and secondary school teaching. NBPTS administers the NBC program.

"School district" means a public school district.

"Teacher" means an Iowa-licensed teacher as defined in Iowa Code section 272.1.

281—84.3(256) Registration fee reimbursement program. If funds are appropriated by the Iowa legislature, the department shall administer a registration fee reimbursement program.

84.3(1) *Eligibility.* Teachers seeking reimbursement shall apply to the department within one year of registration with NBPTS. Teachers eligible for the registration fee reimbursement program shall meet all of the following qualifications:

a. The individual has all qualifications required by NBPTS for application for certification.

b. The individual is a teacher.

c. The individual is employed by a school district in Iowa.

d. The individual receives a salary as a classroom teacher.

e. The individual completes the department's application process, which includes submitting verification of NBC registration.

f. The individual has not received reimbursement from this program at any previous time.

84.3(2) *Registration fee reimbursement.* If funds are appropriated by the legislature, all teachers who apply to the department shall receive registration fee reimbursement. If, however, in any fiscal year the number of eligible teachers that apply for the reimbursement exceeds the funds available, the department shall prorate the amount of the registration fee reimbursement among all eligible teachers.

84.3(3) *Reimbursement.* Teachers determined eligible shall receive reimbursement in the following manner:

a. Initial registration fee reimbursement. Each eligible teacher shall receive an initial reimbursement of one-half of the reimbursement fee charged by NBPTS or, if necessary, a prorated amount upon submission to the department of the NBC registration confirmation form provided to each teacher by NBPTS.

b. Final registration fee reimbursement. The final registration fee reimbursement of one-half of the reimbursement fee charged by NBPTS or, if necessary, a prorated amount shall be awarded when the eligible teacher notifies the department of the teacher's certification achievement and submits verification of certification. If an eligible teacher fails to receive certification, the teacher can receive the remaining reimbursement if the teacher achieves certification within three years of the initial NBC score notification.

84.3(4) *Withdrawal from NBC process.* A teacher who has received the initial registration fee reimbursement from the department and withdraws from the NBC process shall reimburse the department the amount received from the department within 30 days of receiving any fee reimbursement from NBPTS if the reimbursement from NBPTS is equal to or greater than the amount received from the department. If the reimbursement amount from NBPTS is less than the amount the teacher received from the department, the teacher shall reimburse the department any amount received from NBPTS.

281—84.4(256) NBC annual award. If funds are appropriated by the legislature, each eligible NBC teacher can qualify for one of the following NBC annual awards. If in any fiscal year the funds appropriated are insufficient to pay the maximum amount of the annual awards to each eligible teacher or the number of teachers eligible to receive annual awards exceed 1,100 individuals, the funds shall be prorated among all eligible teachers.

1. *$5,000 annual award.* An eligible teacher who receives NBC certification prior to May 1, 2000, will receive an annual award of up to $5,000 per year or a prorated amount for a period of ten years or until the teacher's total state annual award amount reaches $50,000, whichever occurs first.

2. *$2,500 annual award.* An eligible teacher who receives NBC certification after May 1, 2000, will receive an annual award of up to $2,500 per year or a prorated amount for a maximum period of ten years.

84.4(1) *Eligibility.* Individuals eligible for the NBC annual award shall meet all of the following qualifications:

a. The individual is an NBC teacher.

b. The individual is a teacher.

c. The individual is employed by a school district in Iowa.

d. The individual receives a salary as a classroom teacher.

e. The individual completes the department's annual application process, which includes submitting verification of certification.

f. The individual has not received an NBC annual award for more than ten years.

g. The individual has not received state NBC annual awards totaling more than $50,000.

h. The individual is applying for the award within one year of being eligible for the award.

84.4(2) *Application.* An NBC teacher shall submit an application verifying eligibility for an NBC award to the department by May 1 of each fiscal year the NBC teacher is eligible for the award. NBC awards shall be issued to eligible NBC teachers no later than June 1 of each fiscal year.

84.4(3) *Taxes.* The NBC award is not considered salary for purposes of Iowa Code chapter 97B. The eligible NBC teacher will be responsible to pay the appropriate state and federal taxes. The department will notify state and federal taxing authorities of the award and the NBC teacher will be issued an IRS Form 1099.

281—84.5(256) Appeal of denial of a registration fee reimbursement award or an NBC annual award. Any applicant may appeal the denial of a registration fee reimbursement award or an NBC annual award to the director of the department. Appeals must be in writing and received within ten working days of the date of the notice of denial and must be based on a contention that the process was conducted outside statutory authority or violated state or federal law, regulation or rule. The hearing and appeal procedures found in 281—Chapter 6 that govern director's decisions shall be applicable to any appeal of denial.

In the notice of appeal, the applicant shall give a short and plain statement of the reasons for the appeal.

The director shall issue a decision within a reasonable time, not to exceed 30 days from the date of the hearing.

These rules are intended to implement Iowa Code section 256.44 as amended by 1999 Iowa Acts, House File 766.

[Filed emergency 9/16/98—published 10/7/98, effective 9/16/98]
[Filed 11/19/98, Notice 10/7/98—published 12/16/98, effective 1/20/99]
[Filed emergency 8/16/99—published 9/8/99, effective 8/16/99]

TITLE XIV—A
TEACHERS AND PROFESSIONAL LICENSING
(Effective through September 30, 1988)

CHAPTER 85
CLASSIFICATION OF CERTIFICATES (Through 9/30/88)
[Prior to 9/7/88, see Public Instruction Department[670] Ch 14]
Rescinded 11/14/90, see IAB 12/12/90

CHAPTER 86
ENDORSEMENTS (Through 9/30/88)
[Prior to 9/7/88, see Public Instruction Department[670] Ch 15]
Rescinded 11/14/90, see IAB 12/12/90

CHAPTER 87
APPROVALS (Through 9/30/88)
[Prior to 9/7/88, see Public Instruction Department[670] Ch 16]
Rescinded 11/14/90, see IAB 12/12/90

CHAPTER 88
CONVERSION AND RENEWAL OF CERTIFICATES (Through 9/30/88)
[Prior to 9/7/88, see Public Instruction Department[670] Ch 17]
Rescinded 11/14/90, see IAB 12/12/90

CHAPTER 89
STANDARDS FOR TEACHER EDUCATION PROGRAMS (Through 9/30/88)
[Prior to 9/7/88, see Public Instruction Department[670] Ch 19]
Rescinded 11/14/90, see IAB 12/12/90

CHAPTER 90
STANDARDS FOR GRADUATE TEACHER EDUCATION PROGRAMS
[Prior to 9/7/88, see Public Instruction Department[670] Ch 20]
Rescinded IAB 12/16/98, effective 1/20/99

[illegible]

TITLE XVI
SCHOOL FACILITIES

CHAPTER 96
LOCAL OPTION SALES AND SERVICES TAX FOR SCHOOL INFRASTRUCTURE

281—96.1(77GA,ch1130) Definitions. For purposes of these rules, the following definitions shall apply:

"Actual enrollment" means the number of students each school district certifies to the department by October 1 of each year in accordance with Iowa Code section 257.6, subsection 1.

"Base year" means the school year ending during the calendar year in which the budget is certified.

"Combined actual enrollment" means the sum of the students in each school district located in whole or in part in a county imposing a sales tax who are residents of that county as determined by rule 96.2(77GA,ch1130).

"Department" means the state department of education.

"Nonresident student" means a student enrolled in a school district who does not meet the requirements of a resident as defined in Iowa Code section 282.1.

"Resident student" means a student enrolled in a school district who meets the requirements of a resident as defined in Iowa Code section 282.1.

"Sales tax" means a local option sales and services tax for school infrastructure imposed in accordance with 1998 Iowa Acts, chapter 1130.

"School district" means a public school district in Iowa accredited by the state department of education.

281—96.2(77GA,ch1130) Reports to the department. Each school district located in whole or in part in a county where a sales tax has been imposed shall report the following to the department on forms and in the manner prescribed by the department.

96.2(1) *First year of taxation.* Within ten days after an election in a county where a sales tax has been adopted, each school district within the county shall report to the department the actual enrollment of the school district in the year prior to the base year. The department shall forward the actual enrollment to the department of management within 15 days of receipt.

96.2(2) *Second year and subsequent years of taxation.* In the second year and subsequent years of taxation, each school district shall, by October 1, annually report the school district's actual enrollment by the student's county of residency according to the following:

a. County of residency. The county of residency for each of the following students shall be the county of residency of the student's parent or guardian:

(1) Resident students who were enrolled in the school district in grades kindergarten through 12 and including prekindergarten students enrolled in special education programs;

(2) Full-time equivalent resident students of high school age for whom the school district pays tuition to attend an Iowa community college;

(3) Shared-time and part-time students of school age enrolled in the school district;

(4) Eleventh and twelfth grade nonresident students who were residents of the school district during the preceding school year and are enrolled in the school district until the students graduate;

(5) Resident students receiving competent private instruction from a licensed practitioner provided through a public school district pursuant to Iowa Code chapter 299A; and

(6) Resident students receiving competent private instruction under dual enrollment pursuant to Iowa Code chapter 299A.

b. Emancipated minor. The county of residency for an emancipated minor attending the school district shall be the county in which the emancipated minor is living.

c. County of residency unknown. If a school district cannot determine an enrolled student's county of residency, the county of residency shall be the county in which the school district certifies its budget.

281—96.3(77GA,ch1130) Combined actual enrollment. By March 1, annually, the department shall forward to the department of management the actual enrollment and the actual enrollment by the student's county of residency for each school district located in whole or in part in a county where a sales tax has been imposed and the combined actual enrollment for that county.

These rules are intended to implement 1998 Iowa Acts, chapter 1130.

[Filed emergency 9/16/98—published 10/7/98, effective 9/16/98]
[Filed 10/26/98, Notice 9/9/98—published 11/18/98, effective 12/23/98]

CHAPTER 97
SUPPLEMENTARY WEIGHTING

281—97.1(257) Definitions. For the purpose of this chapter, the following definitions apply.

"Class" means a course for academic credit which applies toward a high school or community college diploma.

"Enrolled" shall mean that a student has registered with the school district and is taking part in the educational program.

"Fraction of a school year at the elementary level" shall mean the product of the minutes per day of class times the number of days per year the class meets divided by the product of the total number of minutes in a school day times the total number of days in a school year.

"Fraction of a school year at the secondary level" shall mean the product of the class periods per day of class times the number of days per year the class meets divided by the product of the total number of class periods in a school day times the total number of days in a school year. All class periods available in a normal day shall be used in the calculation.

"Supplant" shall mean the community college's replacing the identical course that was offered by the school district in the preceding year or the second preceding year, or the community college's offering a course that is required by the school district in order to meet the minimum accreditation standards in Iowa Code section 256.11.

"Supplementary weighting plan" shall mean a plan as defined in this chapter to add a weighting for each resident student eligible that is enrolled in an eligible class taught by a teacher employed by another public school district or taught by a teacher employed jointly with another public school district or sent to and enrolled in an eligible class in another school district or sent to and enrolled in an eligible community college class. The supplementary weighting for each eligible class shall be calculated by multiplying the fraction of a school year that class represents times the number of eligible resident students enrolled in that class times the weighting factor of forty-eight hundredths.

"Teacher" shall be defined pursuant to Iowa Code section 272.1.

281—97.2(257) Supplementary weighting.

97.2(1) *Eligibility.* Except if listed under subrule 97.2(6), a resident student is eligible for supplementary weighting if the student is eligible to be counted as a resident student for certified enrollment and if one of the following conditions is met pursuant to Iowa Code section 257.11:

a. Resident student attends class in another school district pursuant to subrule 97.2(2), or

b. Resident student attends class taught by a teacher employed by another school district pursuant to subrule 97.2(3), or

c. Resident student attends class taught by a teacher jointly employed by two or more school districts pursuant to subrule 97.2(4), or

d. Resident student attends class in a community college for college credit pursuant to subrule 97.2(5).

Other than as listed in paragraphs *"a"* to *"d"* above, no other sharing arrangement shall be eligible for supplementary weighting.

97.2(2) *Attend class in another school district.* Students attending class in another public school district will be eligible for supplementary weighting under paragraph 97.2(1)*"a"* only if the district does not have a licensed and endorsed teacher available within the district to teach the course(s) being provided.

97.2(3) *Attend class taught by a teacher employed by another school district.* Students attending class taught by a teacher employed by another public school district will be eligible for supplementary weighting under paragraph 97.2(1)*"b"* only if the district does not have a licensed and endorsed teacher available within the district to teach the course(s) being provided.

97.2(4) *Attend class taught by a teacher jointly employed with another school district.* All of the following conditions must be met for any student attending class taught by a teacher jointly employed to be eligible for supplementary weighting under paragraph 97.2(1)*"c."* The districts jointly employing the teacher must have:

a. A joint teacher evaluation process and instruments.

b. A joint educational excellence phase III plan.

c. A joint seniority list.

d. One single, unified master contract which illustrates joint collective bargaining.

e. One single salary schedule.

Except for joint employment contracts which meet the requirements of paragraphs *"a"* to *"e"* above, no two or more districts shall list each other for the same classes and grade levels.

97.2(5) *Attend class in a community college.* All of the following conditions must be met for any student attending class in a community college to be eligible for supplementary weighting under paragraph 97.2(1)*"d."*

a. The course must supplement, not supplant, high school courses.

(1) The course must not replace the identical course that was offered by the school district in the preceding year or the second preceding year.

(2) The course must not be required by the school district in order to meet the minimum accreditation standards in Iowa Code section 256.11.

b. The course must be included in the community college catalog or an amendment or addendum to the catalog.

c. The course must be open to all registered community college students not just high school students.

d. The course must be for college credit and the credit must apply toward an associate of arts or associate of science degree, or toward an associate of applied arts or associate of applied science degree, or toward completion of a college diploma program.

e. The course must be taught by a teacher meeting community college licensing requirements.

f. The course must be taught utilizing the community college course syllabus.

g. The course must be of the same quality as a course offered on a community college campus.

97.2(6) *Ineligibility.* The following students are ineligible for supplementary weighting:

a. Nonresident students attending the district under any arrangement.

b. Students taking courses taught via the Iowa Communications Network (ICN) or any other television or electronic medium pursuant to Iowa Code section 257.11.

c. Students eligible for the special education weighting plan provided in Iowa Code section 256B.9.

d. Students in whole-grade sharing arrangements.

e. Students open enrolled in or out.

f. Students enrolled in nonpublic schools.

g. Students participating in a home school assistance program or dual enrollment.

h. Students participating in shared services rather than shared classes.

i. Students taking postsecondary enrollment options (PSEO) courses authorized under Iowa Code chapter 261C are ineligible for supplementary weighting for the PSEO courses.

j. Students enrolled in courses or programs offered by their resident district unless those courses meet the conditions for attending classes in a community college under subrule 97.2(5) or if the teacher is employed by another district pursuant to subrule 97.2(3) or if a teacher is jointly employed with another district pursuant to subrule 97.2(4).

k. Students enrolled in courses or programs taught by teachers employed by their resident districts unless the employment meets the criteria of joint employment with another school district under subrule 97.2(4) or if the criteria in subrule 97.2(5) are met for students attending class in a community college.

97.2(7) *Whole-grade sharing.* If all or a substantial portion of the students in any grade are shared with another two or more districts for all or a substantial portion of a school day, then no students in that grade level are eligible for supplementary weighting.

281—97.3(257) Due date. Supplementary weighting shall be included with the certified enrollment which is due October 1 following the third Friday in September on which the enrollment was taken.

These rules are intended to implement Iowa Code sections 257.6, 257.11, and 257.12.

[Filed emergency 8/13/99—published 9/8/99, effective 8/13/99]

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Reserved

TITLE XVII
PROTECTION OF CHILDREN

CHAPTER 101
CHILD ABUSE REPORTING
Reserved

COLLEGE STUDENT AID COMMISSION[283]

[Prior to 8/10/88, see College Aid Commission[245]]

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Reserved

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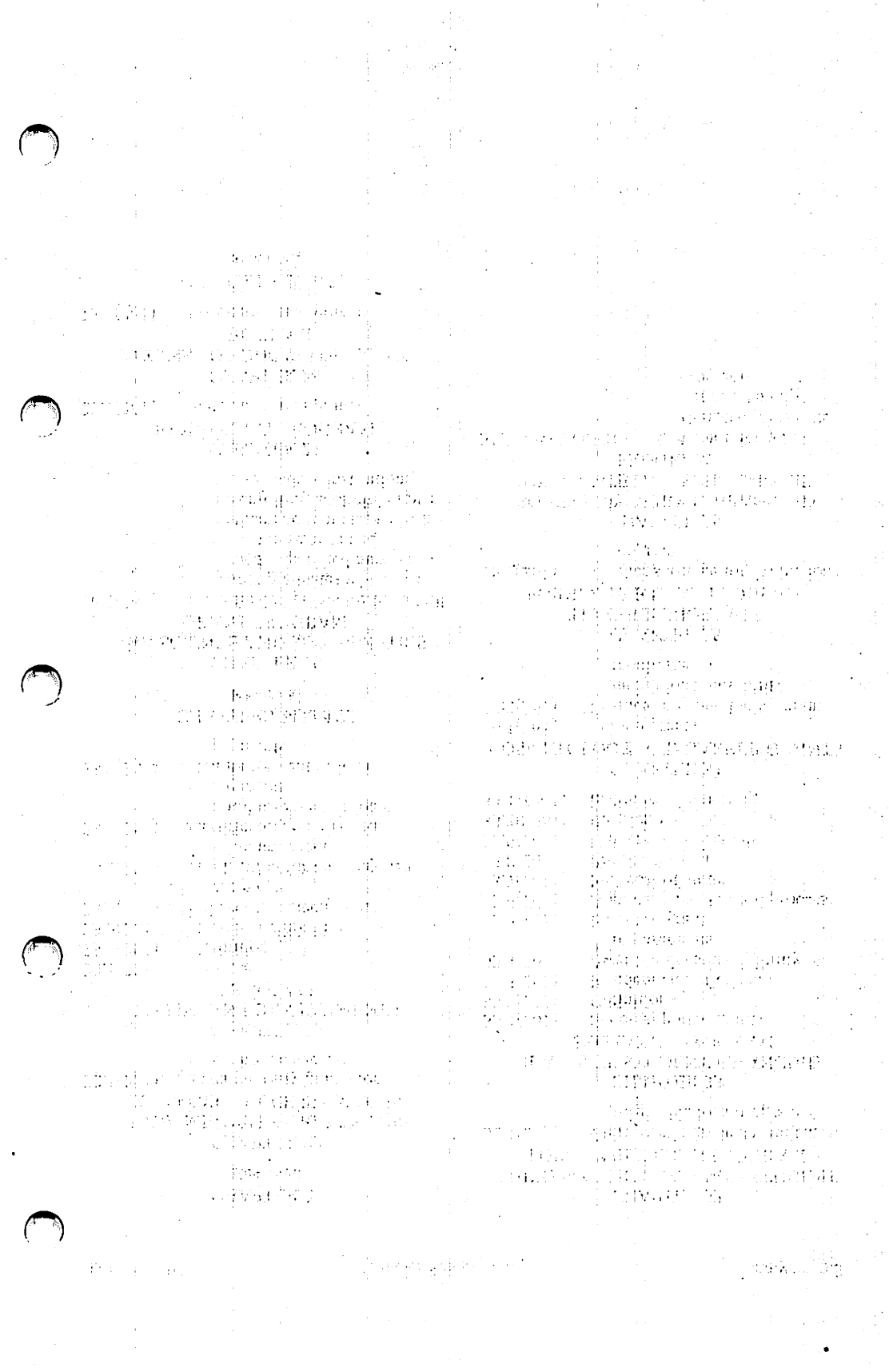
TEACHER SHORTAGE FORGIVABLE LOAN PROGRAM

35.1(261) Teacher shortage forgivable loan program

CHAPTER 36
GOVERNOR TERRY E. BRANSTAD IOWA STATE FAIR SCHOLARSHIP PROGRAM

36.1(77GA,ch1215) Governor Terry E. Branstad Iowa state fair scholarship program



CHAPTER 13
IOWA VOCATIONAL-TECHNICAL TUITION GRANT PROGRAM

[Prior to 8/10/88, see College Aid Commission, 245—Ch 5]

283—13.1(261) Tuition grant based on financial need to Iowa residents enrolled in vocational or technical (career education) programs at community colleges in the state.

13.1(1) *Financial need.*

a. Financial need is defined as the difference between the estimated amount of family resources available for college expenses and the total costs at the institution the student plans to attend.

b. Financial need shall be evaluated annually on the basis of a confidential financial statement filed on forms designated by the commission which must be received by the processing agency by the priority dates specified in the application instructions.

13.1(2) *Student eligibility.*

a. A recipient must be an Iowa resident. The criteria used by the state board of regents to determine residency for tuition purposes, 681 IAC 1.4(262), are adopted for this program.

b. A recipient must be enrolled for at least three semester hours or the trimester or quarter equivalent in a vocational-technical or career option program.

c. A recipient may receive moneys under this program for liberal arts classes identified by the community college as required for completion of the student's vocational-technical or career option program. A recipient must be concurrently enrolled in a vocational or technical (career education) program.

d. A full-time recipient may receive moneys under this program for not more than four semesters or the trimester or quarter equivalent of two full years of study. A part-time recipient may receive moneys under this program for not more than eight semesters or the trimester or quarter equivalent of two full years of full-time study. A recipient who is making satisfactory progress but cannot complete the course because of required liberal arts classes may receive the grant for one additional enrollment period.

e. A full-time recipient may receive no more than the amount specified by Iowa law or the amount of the student's established financial need, whichever is less. A part-time recipient's award shall be a prorated portion of the full-time award. The proration will be established by the commission in a manner consistent with federal Pell Grant Program proration. Part-time recipients taking from 3 to 5 credit hours will receive awards equal to one-fourth of the full-time award; recipients taking from 6 to 8 credit hours will receive awards equal to one-half of the full-time award; and recipients taking from 9 to 11 credit hours will receive awards equal to three-fourths of the full-time award.

f. A recipient may again be eligible for moneys under 13.1(2)*"d"* if the recipient resumes study after at least a two-year absence, except for coursework for which credit was previously received.

13.1(3) *Self-supporting applicants.* For purposes of determining financial independence, the commission has adopted the definition in use by the U.S. Department of Education for the federally funded student assistance programs. Self-supporting applicants must certify their status on the financial aid form and supply any required documentation to the educational institution.

13.1(4) *Priority for grants.* Applicants who apply by the priority date specified in the application are ranked in order of the estimated amount of the student's family contribution toward college expenses; and awards are granted to those who demonstrate need in order of family contribution from lowest to highest, insofar as funds permit. If funding appropriated for second-priority applicants is insufficient to assist all full-need applicants who apply by the second priority date specified in the application, each community college will be provided an allocation based on the percent of total funds received during the prior year. Community college officials will identify recipients using criteria established by the commission.

13.1(5) *Award notification.* A grant recipient is notified of the award by the educational institution(s) to which application is made. The institution(s) is responsible for completing necessary verification and for coordinating other aid to ensure compliance with student eligibility requirements and allowable award amounts. The institution reports changes of student eligibility to the commission.

13.1(6) *Full year of study.* For purposes of this program, the commission has defined full year of study as either four quarters or two semesters plus a summer session. Grant payments are prorated according to this definition.

13.1(7) *Award transfers and adjustments.* Recipients are responsible for promptly notifying the appropriate institution(s) of any change in enrollment or financial situation. The educational institution will make necessary changes and notify the commission.

13.1(8) *Restrictions.* A student who is in default on a Stafford Loan, SLS Loan, or a Perkins/National Direct/National Defense Student Loan or who owes a repayment on any Title IV grant assistance or state award shall be ineligible for assistance under the Iowa vocational-technical tuition grant program. Eligibility for state aid may be reinstated upon payment in full of the delinquent obligation or by commission ruling on the basis of adequate extenuating evidence presented in an appeal under the procedures set forth in 283—Chapter 5.

This rule is intended to implement Iowa Code section 261.9(1) and Iowa Code section 261.17 as amended by 1999 Iowa Acts, Senate File 464, sections 29 and 30.

[Filed 10/15/73]
[Filed 1/7/77, Notice 10/20/76—published 1/26/77, effective 3/2/77]
[Filed 2/16/79, Notice 11/1/78—published 3/7/79, effective 4/11/79]
[Filed 3/9/82, Notice 1/6/82—published 3/31/82, effective 5/5/82]
[Filed 7/15/83, Notice 4/27/83—published 8/3/83, effective 9/7/83]
[Filed emergency 8/26/83—published 9/14/83, effective 8/26/83]
[Filed 12/16/83, Notice 9/14/83—published 1/4/84, effective 2/8/84]
[Filed 7/22/88, Notice 3/9/88—published 8/10/88, effective 9/14/88]
[Filed 1/13/89, Notice 11/2/88—published 2/8/89, effective 3/15/89]
[Filed 11/14/90, Notice 10/3/90—published 12/12/90, effective 1/16/91]
[Filed 9/13/91, Notice 7/24/91—published 10/2/91, effective 11/6/91]
[Filed 1/20/95, Notice 12/7/94—published 2/15/95, effective 3/22/95]
[Filed 12/1/97, Notice 10/8/97—published 12/17/97, effective 1/28/98]
[Filed 11/25/98, Notice 8/26/98—published 12/16/98, effective 1/20/99]
[Filed 8/20/99, Notice 6/16/99—published 9/8/99, effective 10/13/99]

CHAPTER 20
IOWA NATIONAL GUARD EDUCATIONAL ASSISTANCE PROGRAM

283—20.1(261) Educational assistance to Iowa national guard members for undergraduate studies at eligible Iowa institutions. The adjutant general shall determine eligibility requirements and select program recipients, and the decision of the adjutant general is final.

20.1(1) *Guard member eligibility.* A recipient must:

a. Be a resident of Iowa, as defined by the adjutant general of Iowa, and a member of an Iowa army or air national guard unit throughout each term for which the member has applied for benefits.

b. Have satisfactorily completed required guard training.

c. Have maintained satisfactory performance of guard duty.

d. Have applied to the adjutant general of Iowa for program eligibility.

e. Be pursuing a certificate or undergraduate degree program at an eligible Iowa college or university and maintain satisfactory academic progress.

f. Provide notice of national guard status to the college or university at the time of registration.

20.1(2) *Institutional eligibility.* Guard members attending the following categories of Iowa colleges and universities are eligible to receive moneys from this program:

a. Institutions accredited by the North Central Association of Colleges and Secondary Schools.

b. State-supported area community colleges accredited by the state department of education.

20.1(3) *Award notification.* A guard member is notified of eligibility by the adjutant general of Iowa. The adjutant general will notify the Iowa college student aid commission (commission) of all eligible members. The commission will notify the Iowa colleges and universities of guard members' eligibility.

20.1(4) *Award limitations.* Awards may be used for educational assistance including tuition and fees; room and board; books, supplies, transportation and personal expenses; dependent care; and disability-related expenses. Individual award amounts shall be determined by the adjutant general and shall be neither less than an amount equal to 50 percent of the resident tuition rate established for students attending regent institutions nor exceed the amount of the resident tuition rate established for students attending regent institutions.

20.1(5) *Restrictions.*

a. A guard member may use benefits only for undergraduate educational assistance.

b. A guard member who has met the educational requirements for a baccalaureate degree is not eligible for benefits.

c. A qualified full-time student may receive tuition aid benefits for no more than eight semesters of undergraduate study or the quarter or trimester equivalent. A qualified part-time student may receive tuition aid benefits for no more than 16 semesters of undergraduate study or the quarter or trimester equivalent.

20.1(6) *Verification and compliance.*

a. The adjutant general will notify the commission of all eligible guard members. Changes in member eligibility will be sent to the commission within 30 days of the change.

b. The commission will notify eligible Iowa colleges and universities of guard members' eligibility.

c. The commission will coordinate the collection and dissemination of eligibility and enrollment information received from the adjutant general and the colleges and universities.

d. The institution's financial aid administrator will be responsible for completing necessary academic progress and enrollment verifications and for coordinating other aid to ensure compliance with student eligibility requirements and allowable award amounts. The colleges and universities will report changes of students' enrollment to the commission within 30 days after the last day of the enrollment period.

This rule is intended to implement Iowa Code section 261.21.

[Filed 6/20/97, Notice 4/9/97—published 7/16/97, effective 8/20/97]
[Filed 8/20/99, Notice 6/16/99—published 9/8/99, effective 10/13/99]

CHAPTER 21
IOWA NURSING LOAN PAYMENTS PROGRAM

Rescinded IAB 10/25/95, effective 11/29/95

CHAPTER 30
OSTEOPATHIC FORGIVABLE PROGRAM
Rescinded IAB 6/16/99, effective 7/21/99

CHAPTER 31
IOWA WORK FOR COLLEGE PROGRAM
Rescinded IAB 6/18/97, effective 7/23/97

CHAPTER 32
CHIROPRACTIC GRADUATE STUDENT FORGIVABLE LOAN PROGRAM

283—32.1(261) Chiropractic graduate student forgivable loan program. The chiropractic graduate student forgivable loan program is a state-supported and administered forgivable loan program for Iowans enrolled at Palmer College of Chiropractic.

32.1(1) *Definitions.* As used in this chapter:

"Chiropractic practice" means working full-time as a licensed chiropractor in the state of Iowa as certified by the state board of examiners.

"Graduate student" means a student who has completed at least 90 semester hours, or the trimester or quarter equivalent, of postsecondary coursework at a public higher education institution or at an accredited private institution, as defined under Iowa Code section 261.9.

"Iowa resident student" means an individual who meets the criteria used by the state board of regents to determine residency for tuition purposes, 681 IAC 1.4(262).

"Underserved area" means a geographical area included on the Iowa governor's health practitioner shortage area list, which is compiled by the center for rural health and primary care of the Iowa department of public health.

32.1(2) *Recipient eligibility.*

a. Individuals who are enrolled at the Palmer College of Chiropractic on or after July 1, 1999, who meet the Iowa residency criteria as defined in 681 IAC 1.4(262) and agree to practice chiropractic in an underserved area in Iowa are eligible to apply for program benefits.

b. The annual amount of the forgivable loan to an eligible chiropractic student is determined by dividing the annual appropriation by the number of eligible students.

c. Eligible students who borrowed prior to July 1, 1999, and seek additional assistance, must agree to practice in an underserved area in Iowa to qualify for cancellation benefits for all loans.

d. Notwithstanding the foregoing, the amount of a forgivable loan for an eligible chiropractic student shall not exceed the student's annual cost of tuition and fees.

32.1(3) *Criteria for selection of recipients.* Rescinded IAB 9/8/99, effective 10/13/99.

32.1(4) *Promissory note.* The chiropractic recipient of a loan under this program shall sign a promissory note agreeing to practice chiropractic in an underserved area in Iowa for one full year for each loan received or to repay the loan and accrued interest according to repayment terms specified in the note.

32.1(5) *Interest rate.* The rate of interest on loans under this program shall be at the rate of 10.5 percent per annum on the unpaid principal balance.

32.1(6) *Disbursement of loan proceeds.*

a. The full loan amount will be disbursed when the college certifies that the borrower is an Iowa resident and enrolled in good standing.

b. The loan check will be made copayable to the borrower and Palmer College of Chiropractic and will be sent to the college within ten days following the receipt of the proper certification.

c. The college will deliver the check to the student and require that the loan check be endorsed to the college to be applied directly to the borrower's tuition account.

d. If the student withdraws from attendance and is entitled to a refund of tuition and fees, the pro-rata share of the refund attributable to the state loan must be refunded to the commission.

32.1(7) *Loan cancellations.*

a. Thirty days following the termination of enrollment at Palmer College of Chiropractic or termination of a chiropractic practice in the state of Iowa, the borrower shall notify the commission of the nature of the borrower's employment or educational status.

b. To certify eligibility for cancellation, the borrower must submit to the commission an affidavit from the state licensing board verifying that the borrower practiced as a licensed chiropractor in the state of Iowa for 12 consecutive months for each annual loan to be canceled.

c. If the borrower qualifies for partial loan cancellation, the commission shall notify the borrower promptly and revise the repayment schedule accordingly.

d. In the event of death or total and permanent disability, a borrower's obligation to pay this loan is canceled. Borrowers seeking forgiveness as a result of total or permanent disability must submit sufficient information substantiating the claim to the commission. Reports of a borrower's death will be referred to the licensing board for confirmation.

32.1(8) *Loan payments.*

a. Prior to the start of the repayment period, the commission shall provide the borrower with a repayment schedule, modified to reflect any applicable cancellation benefits.

b. It shall be the borrower's responsibility to remit payments to the commission by the fifteenth day of each month.

c. In the event the borrower fails to abide by any material provision of the promissory note or fails to make any payment due under the promissory note within ten days after the date the payment is due, the commission may declare the borrower in default and declare the entire unpaid balance and accrued interest on the promissory note due.

d. The borrower is responsible for notifying the commission immediately of a change of name, place of employment, or home address.

32.1(9) *Deferral of repayment.*

a. Repayment of the borrower's loan obligation shall become due one year after the borrower graduates if the borrower does not practice chiropractic in an underserved area in Iowa.

b. Repayment of the borrower's loan obligation may be deferred under the following circumstances: active duty in the United States military service, not to exceed three years; during a period of temporary disability, not to exceed three years.

c. Repayment of the borrower's loan obligation under this loan program is not required during periods of enrollment as a student at Palmer College of Chiropractic.

d. Forbearance is a revision in repayment terms to temporarily postpone payments. It may be granted when a borrower experiences a temporary hardship and is willing but unable to pay in accordance with the repayment schedule. Borrowers remain responsible for interest accrual during forbearance periods. The program administrator may grant forbearance for periods of less than six months; periods of greater than six months but less than one year must be approved by the executive director. Forbearance periods exceeding one year must be approved by the commission.

e. Borrowers failing to meet the service requirement shall be required to repay the loan on a prorated basis. The prorated balance will be calculated by dividing the number of days remaining in the service period by the number of days in the service period multiplied by the loan amount.

f. Loans not forgiven may be sold to a bank, savings and loan association, credit union, or nonprofit agency eligible to participate in the guaranteed student loan program under the federal Higher Education Act of 1965, 20 U.S.C.§1071 et seq., by the commission when the loans become due for repayment.

32.1(10) *Restrictions.* A borrower who is in default on a Stafford Loan, SLS Loan, Perkins/National Direct/National Defense Student Loan, Health Professions Student Loan (HPSL), or Health Education Assistance Loan (HEAL) or who owes a repayment on any Title IV grant assistance or state award shall be ineligible for loan payments. Eligibility for state aid may be reinstated upon payment in full of the delinquent obligation or by commission ruling on the basis of adequate extenuating evidence presented in appeal under the procedures set forth in 283—Chapter 5, Iowa Administrative Code.

This rule is intended to implement Iowa Code section 261.71.

[Filed 9/18/97, Notice 6/18/97—published 10/8/97, effective 11/12/97]
[Filed 8/20/99, Notice 6/16/99—published 9/8/99, effective 10/13/99]

CHAPTER 35
TEACHER SHORTAGE FORGIVABLE LOAN PROGRAM

283—35.1(261) Teacher shortage forgivable loan program. The teacher shortage forgivable loan program is a state-supported and administered forgivable loan program for Iowans enrolled as undergraduate or graduate students in designated teacher shortage areas as certified by the director of the Iowa department of education.

35.1(1) *Definitions.* As used in this chapter:

"Eligible institution" means an institution of higher learning under the control of the state board of regents or a North Central Association of Colleges (NCA) accredited independent institution as defined in Iowa Code section 261.9.

"Iowa resident student" means an individual who meets the criteria used by the state board of regents to determine residency for tuition purposes, 681 IAC 1.4(262).

"Practitioner" means an administrator, teacher, or other licensed professional who does not hold or receive a license from a professional licensing board other than the board of educational examiners and who provides educational assistance to students.

"Practitioner preparation program" means a program approved by the state board of education which prepares a person to obtain a license as a practitioner.

"Teacher" means a licensed member of a school's instructional staff who diagnoses, prescribes, evaluates, and directs student learning in a manner consistent with professional practice and school objectives, shares responsibility for the development of an instructional program and any coordinating activities, evaluates or assesses student progress before and after instruction, and who uses the student evaluation or assessment information to promote additional student learning.

35.1(2) *Student eligibility.*

a. An applicant must be an Iowa resident who is enrolled as a sophomore, junior, senior or graduate student at an eligible Iowa regent university or independent college or university in an approved practitioner preparation program designated as a teacher shortage area.

b. The need of an applicant for assistance under this program shall be evaluated annually on the basis of a confidential statement of family finances filed on forms designated by the commission. The processing agent must receive the form by the date specified in the application instructions. The student is responsible for making certain that both the commission and the institution in which the student is enrolling receive the results of this evaluation.

c. An applicant must complete and file an application for the teacher shortage forgivable loan program. Applicants must submit the application by the deadline established by the commission. If funds remain available after the application deadline, the commission will continue to accept applications.

d. The maximum annual award to an eligible student is $3,000, or the amount of the student's established financial need, whichever is less.

e. Financial need is defined as the difference between the student's college expenses and the amount of the financial aid available to defray the expenses.

35.1(3) *Selection criteria.* All applications received on or before the published deadline will be considered for funding. In the event that all applicants for the program cannot be funded with the available appropriations, the following selection criteria will be used to select the recipients: renewal status, date of application, date available to begin teaching, and applicant's financial resources.

35.1(4) *Promissory note.* Loan recipients shall sign promissory notes agreeing to teach in a designated teacher shortage area or the teacher shortage area for which the loan was approved in Iowa for five years or to repay the loan and accrued interest according to repayment terms specified in the note.

35.1(5) *Interest rate.* The rate of interest shall be equal to the repayment rate of a federal Stafford Student Loan for the first year in which the recipient made application. All subsequent loans shall carry the same interest rate.

35.1(6) *Disbursement of loan proceeds.*

a. Loan proceeds will be prorated by academic term and disbursed upon receipt of the institution's certification that the borrower is enrolled in good standing.

b. Loan checks will be made copayable to the borrower and institution and distributed to the institution's financial aid officials.

35.1(7) *Loan cancellations.*

a. Thirty days following graduation, termination of enrollment at the student's institution or termination of full-time teaching in a designated teacher shortage area or the teacher shortage area for which the loan was approved in Iowa, the borrower shall notify the commission of the nature of the borrower's employment and educational status.

b. To certify eligibility for cancellation, the borrower must submit to the commission an affidavit from the borrower's school district verifying that the borrower taught full-time in a designated teacher shortage area or the teacher shortage area for which the loan was approved in an Iowa school district or an accredited nonpublic school. The borrower's loan amount, including principal and interest, shall be reduced by 20 percent for each year of full-time teaching in a designated teacher shortage area or the teacher shortage area for which the loan was approved.

c. If the borrower qualifies for partial loan cancellation, the commission shall revise the repayment schedule accordingly.

d. In the event of death or total and permanent disability, a borrower's obligation to pay this loan is canceled. Borrowers seeking forgiveness as the result of total or permanent disability must submit information substantiating the claim to the commission. Reports of a borrower's death will be referred to the school district for confirmation.

35.1(8) *Loan payments.*

a. Prior to the start of the repayment period, the commission shall provide the borrower with a repayment schedule, modified to reflect any applicable cancellation benefits.

b. It shall be the borrower's responsibility to remit payments to the commission by the fifteenth day of each month.

c. In the event the borrower fails to abide by any material provision of the promissory note or becomes more than 90 days delinquent in submitting required payments, the commission may declare the borrower in default and declare the entire unpaid balance and accrued interest on the promissory note due.

d. The borrower is responsible for notifying the commission immediately of a change of name, place of employment, or home address.

35.1(9) *Deferral of repayment.*

a. Repayment of the borrower's loan obligation may be deferred under the following circumstances: return to full-time study; active duty in the United States military service, not to exceed three years; a period of temporary disability, not to exceed three years.

b. Repayment of the borrower's loan obligation under this program is not required during periods of enrollment or during periods of teaching in a shortage area or the teacher shortage area for which the loan was approved.

c. Forbearance is a revision in repayment terms to temporarily postpone payments. It may be granted when a borrower experiences a temporary hardship and is willing but unable to pay in accordance with the repayment schedule. Borrowers remain responsible for interest accrual during forbearance periods.

The program administrator may grant forbearance for periods of less than six months; periods of greater than six months but less than one year must be approved by the executive director. Forbearance periods exceeding one year must be approved by the commission.

35.1(10) *Restrictions.* A borrower who is in default on a Stafford Student Loan, SLS Loan, Perkins/National Direct/National Defense Student Loan, Health Professions Student Loan (HPSL), or Health Education Assistance Loan (HEAL) or who owes a repayment on any Title IV grant assistance or state award shall be ineligible for loan payments. Eligibility for state aid may be reinstated upon payment in full of the delinquent obligation or by commission ruling on the basis of adequate extenuating evidence presented in appeal under the procedures set forth in 283—Chapter 5, Iowa Administrative Code.

This rule is intended to implement Iowa Code section 261.111 as amended by 1999 Iowa Acts, Senate File 464, section 41.

[Filed 11/25/98, Notice 8/26/98—published 12/16/98, effective 1/20/99]
[Filed 5/28/99, Notice 3/10/99—published 6/16/99, effective 7/21/99]
[Filed 8/20/99, Notice 6/16/99—published 9/8/99, effective 10/13/99]

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CHAPTER 28
POLICIES FOR ALL INSTITUTIONS
[Prior to 7/1/83, Social Services [770] Ch 28]
[Prior to 2/11/87, Human Services [498]]

441—28.1(218) Definitions.

"Administrator" means the administrator of the division of mental health, mental retardation, and developmental disabilities within the Iowa department of human services.

"Director" means the director of the Iowa department of human services.

"Superintendent" means the superintendent of any of the four mental health institutes and the two state hospital-schools.

441—28.2(218) Voluntary admissions to mental health institute.

28.2(1) Any person who has symptoms of mental illness may apply for voluntary admission on Form MH-1101-0, Application for Voluntary Admission at a Mental Health Institute.

28.2(2) A parent or guardian of a minor may make application for voluntary admission on Form MH-1102-0, Application for Voluntary Admission for Patients Under the Age of Eighteen. When a minor objects to the admission and the chief medical officer of the mental health institute determines the admission appropriate, the parent or guardian shall petition the juvenile court for approval of admission prior to admission.

28.2(3) When the person making application for voluntary admission to the mental health institute or those responsible for the person are unable to pay costs of care, application for admission shall be made to any clerk of the district court on Form MH-1103-0, Application for Authorization for Voluntary Admission to a Public Hospital, before application for admission is made to the mental health institute.

Those persons requesting voluntary admission, without going through the county, shall be required to pay, in advance, the cost of hospitalization. This cost shall be computed at 30 times the last per diem rate and shall be collected weekly in advance upon admission. The weekly amount due shall be determined by dividing the monthly rate by 4.3.

28.2(4) The rates for cost of hospitalization, established by the director, shall be available by contacting the business manager of the mental health institute which serves that particular district in which the county of residence is located.

28.2(5) Any person requesting drug treatment shall complete Form MH-1104-3, Application for Voluntary Admission—Drug Treatment at the Mental Health Institute.

28.2(6) A parent or guardian of a minor or a minor on the minor's own behalf, may make application for voluntary admission for drug treatment on Form MH-1105-3, Application for Voluntary Admission—Drug Treatment for Patients Under Eighteen Years of Age at the Mental Health Institute.

28.2(7) Any person requesting treatment for alcoholism shall complete Form MH-1106-2, Application for Voluntary Admission—Treatment of Alcoholism at the Mental Health Institute.

28.2(8) A physician, spouse, guardian, relative or any other responsible person wishing to make application for the emergency admission of a person for treatment of substance abuse and whose admission is necessary because the intoxicated person has threatened, attempted or inflicted physical harm to self or another shall make application on Form MH-1109-0, Application for Emergency Commitment of a Substance Abuser.

28.2(9) A person wishing to receive voluntary outpatient or day treatment shall make application on Form MH-1110-0, Application as an Outpatient/Day Patient.

28.2(10) No inpatient or outpatient either on a voluntary or involuntary basis shall be provided treatment other than what is necessary to preserve life or protect others from physical injury unless:

a. The person has given consent by signing Form MH-2101-0, Consent to Treatment;

b. A court has ordered treatment; or

c. The next of kin of an involuntary patient has given consent by signing Form MH-2101-0, Consent to Treatment.

This rule is intended to implement Iowa Code sections 217.30 and 218.4.

441—28.3(218) Admission to hospital-schools.

28.3(1) Applications for the care, treatment, or evaluation of a person by a hospital-school shall be made by the board of supervisors of either the county of legal settlement or the county of residence of the person for whom application is made. The application shall be made using Form MR-1101, Application for Services to State Hospital-School. The application shall be accompanied by completed Form MR-1301, Physicians Report; Form MR-1401, Consent and Agreement Authorization; a full-length picture of the person for whom application is made; a complete social history using Form MR-1302, Social Case History Outline; and other information specifically requested in writing by the hospital-school.

28.3(2) When the application is for a readmission, the hospital-school may waive the resubmittal of any information already in the files other than Form MR-1101, Application for Services to State Hospital-School.

28.3(3) Upon receipt of an application, the hospital-school may admit a person on a temporary basis for either a preadmission diagnostic evaluation to determine whether the person would be appropriate to admit to the regular program or a diagnostic evaluation to assist in planning for community-based services or respite care.

28.3(4) Upon receipt of an application, the hospital-school may provide a person with outpatient evaluation treatment, training, or habilitation services.

28.3(5) Eligibility for admission shall be determined by:

a. A preadmission diagnostic evaluation,

b. An established diagnosis of mental retardation,

c. The availability of an appropriate program, and

d. The availability of space at the institution.

28.3(6) Express written consent of the individual or parent, guardian, or other person responsible shall be secured before admission.

This rule is intended to implement Iowa Code sections 217.30 and 218.4.

441—28.4(229) Patients' rights for the mentally ill.

28.4(1) The recipient of mental health services shall have the right to every consideration of privacy and individuality.

28.4(2) In order to preserve the patients' self-respect and dignity, to ensure optimum care and treatment, and to guarantee constitutional and civil rights, the patient shall have the following rights:

a. The patient has the right to be evaluated promptly following admission and shall receive emergency service appropriate to the patient's needs.

b. The patient shall have the right to be informed as to treatment plans and hospital rules and regulations applying to individual conduct as a patient.

c. The patient shall be provided with complete and current information concerning patient diagnosis, treatment and progress in terms and language understandable to the patient. When it is not feasible to give this information directly to the patient, the information shall be made available to an immediate family member, guardian or person in charge on behalf of the patient.

28.4(3) An individualized written plan of services shall be developed for each patient. The plan shall be kept current and will be modified when indicated.

28.4(4) The patient shall have the right to receive prompt and adequate treatment of physical and psychological ailments.

28.4(5) The patient has the right not to receive treatment procedures such as surgery, electroconvulsive therapy, or unusual treatment procedures, without the patient's expressed, informed consent or that of next of kin or legally constituted guardian. Any unusual treatment shall be fully explained to the patient in language the patient can reasonably be expected to understand.

28.4(6) The patient shall have the right to the least restrictive conditions necessary to achieve the purposes of treatment. The patient shall be free from restraint or seclusion, except when necessary to prevent harm to the patient, harm to others, or damage to property.

28.4(7) The patient shall have the right to be free from unnecessary or excessive medication or treatment intervention.

28.4(8) Medical records, ward charts and information regarding the evaluation, diagnosis, care and treatment shall be considered private and confidential.

28.4(9) The voluntary mentally ill patient shall be entitled to obtain discharge by submitting a written notice to the superintendent or chief medical officer. The patient may be discharged immediately, on request, except when the superintendent or chief medical officer intends to institute judicial procedures.

28.4(10) An individual posthospitalization plan shall be developed for each patient.

28.4(11) When the patient is assigned to industrial therapy, the specific assignment shall be an integrated part of the treatment plan and the patient shall be appropriately supervised. The patient shall be compensated in accordance with federal and state laws for any work assignment.

28.4(12) The patient shall retain all the rights of full citizenship except as may be specifically limited by the constitution or statute.

28.4(13) The patient, next of kin, or the legal guardian shall have the right to be advised of the provisions of the law pertaining to admissions and discharge.

28.4(14) The patient shall have the right to file application for a writ of habeas corpus and the right to petition the court for release.

28.4(15) The patient has the right to an attorney of choice and to judicial review of the hospitalization. When the patient does not have an attorney, legal counsel shall be obtained through public resources available for legal assistance. The patient has the right to consult privately with counsel at any reasonable time.

28.4(16) The patient has the right to wear personal clothing, and keep and use a reasonable amount of money as appropriate to the treatment program. The hospital shall make provision for the laundering of patient clothing and will provide a reasonable amount of storage space for clothing and personal storage.

28.4(17) When the patient does not have personal clothing or resources to purchase clothing, the institution shall furnish clothing which is clean, neat, and seasonally suitable.

28.4(18) The patient shall be entitled to a safe, sanitary, and humane living environment which affords comfort, promotes dignity, and ensures privacy as is appropriate to the patients' treatment plans.

28.4(19) The patient shall have the right to the opportunity for educational, vocational, rehabilitational, and recreational programs as compatible with the patient's needs.

28.4(20) The patient shall have access to current informational and recreational media, e.g., newspapers, television, or periodicals, in keeping with the patient's treatment program.

28.4(21) The patient has the right to religious worship of the patient's choice in accordance with individual treatment programs. Pastoral counseling shall be available if desired.

28.4(22) The patient shall have the right to unimpeded, private, and uncensored communication with others by mail and telephone and with persons of the patient's choice except when therapeutic or security reasons dictate otherwise. Any limitations or restrictions imposed shall be approved by the superintendent or designee, and the reasons noted shall be made a part of the patient's record.

28.4(23) The patient or representative shall be advised of these rights at the time of hospitalization.

28.4(24) These patient rights shall be publicly posted in each institution.

441—28.5(218) Photographing and recording of patients and use of cameras.

28.5(1) Use of cameras and recorders shall be allowed within the institution only with the prior authorization of the superintendent or designee. Permission to photograph and record shall be granted for one specific use, and the authorization shall not extend to any other use.

28.5(2) Photographs and recordings of a voluntary patient of legal age shall be taken for publication only with a signed release from the patient.

28.5(3) Photographs and recordings of a patient who is a minor, committed mental patient, mentally retarded, or ward of the state shall be taken for publication only with a signed release from the parent or legal guardian.

28.5(4) Every effort shall be made to preserve the inherent dignity of the patient and to preclude exploitation or embarrassment of the patients or the family of the patients.

28.5(5) Pictures and recordings of patients are not to be altered to prevent identification in any manner that would tend to perpetuate the stigma attached to the public image of mental illness or mental retardation.

441—28.6(218) Interviews and statements.

28.6(1) Releases to the news media shall be the responsibility of the superintendent. Authority for dissemination and release of information shall be designated to other persons at the discretion of the superintendent.

28.6(2) Interviews of patients by the news media or other outside persons or groups shall be permitted only with the consent of the patient or the patient's legal guardian. When a request without known prior consent is received, the superintendent or designee shall not acknowledge the presence or nonpresence of a person as a patient. If the patient is in the hospital, the superintendent or designee shall make the patient aware of the request. Notice to the patient shall be documented in the patient's record. The patient shall be free to decide whether or not an interview is granted.

This rule is intended to implement Iowa Code section 218.4.

441—28.7(218) Use of grounds, facilities, or equipment.

28.7(1) The superintendent or designee may grant permission for temporary use of assembly halls, auditoriums, meeting rooms, or institutional grounds to an organization or group of citizens when the facility is available and is not needed for regular scheduled departmental services.

28.7(2) Members of outside organizations permitted to a facility shall observe the same rules as visitors to the institution.

441—28.8(218) Tours of institution. Groups or individuals shall be permitted to tour the institution only with approval of the superintendent or designee.

441—28.9(218) Donations. Donations of money, clothing, books, games, recreational equipment or other gifts shall be made directly to the superintendent or designee. The superintendent or designee shall evaluate the donation in terms of the nature of the contribution to the hospital program. The superintendent or designee shall be responsible for accepting the donation and reporting the gift to the administrator, division of mental health, mental retardation, and developmental disabilities. All monetary gifts shall be acknowledged in writing to the donor.

441—28.10(218) Residents' rights for the mentally retarded.

28.10(1) The recipient of mental retardation services shall be treated with consideration, respect, and full recognition of the recipient's dignity and individuality.

28.10(2) In order to preserve each resident's self-respect and dignity, to ensure optimum care and treatment, and to prevent physical and psychological abuse, the resident shall be afforded the following considerations:

a. The resident shall be evaluated promptly following admission and shall receive emergency services appropriate to the person's needs.

b. The resident may participate in the development of treatment plans and shall be advised of hospital rules and regulations applying to individual conduct as a resident.

c. The resident shall be provided with current information concerning diagnosis, treatment and progress in terms and language understandable to the resident. When it is not feasible to give this information directly to the resident the information shall be made available to an immediate family member, guardian, or person in charge on behalf of the resident.

28.10(3) Each resident and the parent or guardian may participate in the planning and decision making with regard to the resident and be informed in writing of progress at reasonable intervals. Whenever possible, the resident shall be given the opportunity to decide which of several appropriate alternative services to receive.

28.10(4) An individual written plan of services shall be developed for each resident. The plan shall be implemented through prompt treatment of identified ailments, shall be kept current, and shall be modified when indicated.

28.10(5) The resident shall not receive unusual treatment procedures such as surgery, electroconvulsive therapy or aversive therapy without the resident's expressed, informed consent or that of the legally constituted guardian. Any unusual treatment shall be fully explained to the resident in language that the resident can reasonably be expected to understand.

28.10(6) The resident shall have the least restrictive conditions necessary to achieve the purposes of treatment. The resident shall be free from restraint or seclusion except when necessary to prevent harm to the resident or others or damage to property, or when utilized as a treatment method in which case the procedures in subrule 28.4(5) will apply.

28.10(7) The resident shall be free from unnecessary or excessive medication or treatment intervention.

28.10(8) Medical records, ward charts and information regarding the evaluation, diagnosis, care and treatment shall be considered private and confidential.

28.10(9) An individual postinstitutional plan shall be developed for each resident when release becomes an immediate goal.

28.10(10) When the resident is assigned to industrial therapy, the specific assignment shall be an integrated part of the treatment plan and the resident shall be appropriately supervised. The resident shall be compensated in accordance with federal and state laws for any work assignment.

28.10(11) The resident shall retain all the rights of full citizenship except as may be specifically limited by the constitution, statute, or court order.

28.10(12) The resident, parent, or legal guardian shall be advised of the provision of the law pertaining to admissions and discharge.

28.10(13) The resident may file application for a writ of habeas corpus and petition the court for release.

28.10(14) The resident may wear personal clothing and keep and use a reasonable amount of money as appropriate to the treatment program. The institution shall make provision for the laundering of the resident's clothing and will provide a reasonable amount of storage space for clothing and personal property.

28.10(15) When the resident does not have personal clothing or resources to purchase clothing, the institution shall furnish clothing which is clean, neat and seasonally suitable.

28.10(16) The resident shall have the opportunity for educational, vocational, rehabilitational and recreational programs as compatible with the resident's needs.

28.10(17) The resident shall have access to current informational recreational media, e.g., newspapers, television, or periodicals in keeping with the resident's treatment program.

28.10(18) The resident may participate in religious worship of personal choice in accordance with individual treatment program. Pastoral counseling shall be available when desired.

28.10(19) The resident shall be accorded privacy and uncensored communication with others by mail and telephone and with persons of the resident's choice except when therapeutic or security reasons dictate otherwise. Any limitations or restrictions imposed shall be approved by the superintendent or designee and the reasons noted shall be made a part of the resident's record.

28.10(20) The resident or any person acting on behalf of the resident may submit to the appropriate human rights committee in the institution or other appropriate authority for investigation and appropriate action complaints or grievances against any person, group of persons, organization, or business regarding infringement of the benefits of the mentally retarded person and delivery of the mental retardation services.

28.10(21) The rules for mentally retarded residents shall be publicly posted in each facility.

28.10(22) All rights and responsibilities of the resident shall devolve to the resident's guardian, next of kin, or sponsoring agency when:

a. A resident is adjudicated incompetent in accordance with state law.

b. A resident's physician has documented in the resident's record the specific impairment that has rendered the resident incapable of understanding the rights for the mentally retarded.

441—28.11(218) Catchment areas.

28.11(1) The catchment areas for the four mental health institutes shall be made up of the following counties:

a. Cherokee:

Buena Vista	Franklin	Marshall	Sioux
Calhoun	Hamilton	Monona	Story
Cerro Gordo	Hancock	O'Brien	Webster
Cherokee	Hardin	Osceola	Winnebago
Clay	Humboldt	Palo Alto	Woodbury
Crawford	Ida	Plymouth	Worth
Dickinson	Kossuth	Pocahontas	Wright
Emmet	Lyon	Sac	

b. Clarinda:

Adair	Dallas	Mills	Taylor
Adams	Decatur	Montgomery	Union
Audubon	Fremont	Page	Warren
Boone	Greene	Polk	Wayne
Carroll	Guthrie	Pottawattamie	
Cass	Harrison	Ringgold	
Clarke	Madison	Shelby	

c. Independence:

Allamakee	Butler	Fayette	Jones
Benton	Chickasaw	Floyd	Linn
Black Hawk	Clayton	Grundy	Mitchell
Bremer	Delaware	Howard	Tama
Buchanan	Dubuque	Jackson	Winneshiek

d. Mt. Pleasant:

Appanoose	Iowa	Louisa	Poweshiek
Cedar	Jasper	Lucas	Scott
Clinton	Jefferson	Mahaska	Van Buren
Davis	Johnson	Marion	Wapello
Des Moines	Keokuk	Monroe	Washington
Henry	Lee	Muscatine	

28.11(2) The catchment areas for the two state hospital-schools shall be made up of the following counties:

a. Glenwood:

Adair	Decatur	Lee	Pottawattamie
Adams	Des Moines	Linn	Ringgold
Appanoose	Fremont	Louisa	Sac
Audubon	Greene	Lucas	Scott
Benton	Guthrie	Lyon	Shelby
Carroll	Harrison	Mahaska	Sioux
Cass	Henry	Mills	Taylor
Cedar	Ida	Monona	Union
Cherokee	Iowa	Monroe	Van Buren
Clarke	Jefferson	Montgomery	Wapello
Clinton	Johnson	Muscatine	Washington
Crawford	Jones	Page	Wayne
Davis	Keokuk	Plymouth	Woodbury

b. Woodward:

Allamakee	Dallas	Howard	Pocahontas
Black Hawk	Delaware	Humboldt	Polk
Boone	Dickinson	Jackson	Poweshiek
Bremer	Dubuque	Jasper	Story
Buchanan	Emmet	Kossuth	Tama
Buena Vista	Fayette	Madison	Warren
Butler	Floyd	Marion	Webster
Calhoun	Franklin	Marshall	Winnebago
Cerro Gordo	Grundy	Mitchell	Winneshiek
Chickasaw	Hamilton	O'Brien	Worth
Clay	Hancock	Osceola	Wright
Clayton	Hardin	Palo Alto	

28.11(3) Application for voluntary admission to an institution shall be made to the institution in the catchment area within which the person for whom admission is sought is residing.

28.11(4) Court commitment of a person shall be made to the institution within the catchment area within which the court is located.

28.11(5) The administrator shall give consideration to granting exceptions to the established catchment areas when requested by the person seeking a voluntary admission or the committing court. The administrator's decision shall be made within 48 hours of receipt of the request. The decision shall be based on the clinical needs of the patient, the availability of appropriate program services, available bed space within the program at the requested institution and the consent of the superintendents of both institutions involved.

28.11(6) For the purpose of treating a minor from the Clarinda catchment area who requires admission or commitment to a mental health institute adolescent or children's treatment program, the Clarinda catchment area is deemed to be a part of the Cherokee catchment area. For a minor in the Mt. Pleasant catchment area, the Mt. Pleasant catchment area is deemed to be a part of the Independence catchment area.

This rule is intended to implement Iowa Code section 218.4.

441—28.12(217) Release of confidential information.

28.12(1) Information defined by statute as confidential concerning current or former patients or residents of the mental health institutes or hospital-schools shall not be released to a person, agency or organization, who is not authorized by law to have access to the information, unless the patient or resident authorizes the release. Authorization shall be given by using Form MH-2201-0.

28.12(2) Persons admitted or committed to a mental health institute or a hospital-school and who are not able to pay their own way in full shall authorize the department to obtain information necessary to establish whether they have legal settlement in Iowa or in another state. Authorization shall be given using Form MH-2203-0, Authorization to Release Information for Settlement.

This rule is intended to implement Iowa Code section 217.30.

[Filed 2/19/76, Notice 1/12/76—published 3/8/76, effective 4/12/76]
[Filed 4/30/76, Notice 3/22/76—published 5/17/76, effective 6/21/76]
[Filed 11/21/80, Notice 9/17/80—published 12/10/80, effective 1/14/81]
[Filed 10/23/81, Notice 8/19/81—published 11/11/81, effective 12/16/81]
[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 2/14/91, Notice 11/28/90—published 3/6/91, effective 5/1/91]
[Filed 3/11/93, Notice 2/3/93—published 3/31/93, effective 6/1/93]

CHAPTER 29
MENTAL HEALTH INSTITUTES
[Prior to 7/1/83, Social Services [770] Ch 29]
[Prior to 2/11/87, Human Services[498]]

441—29.1(218) Visiting.

29.1(1) Visiting hours Monday through Friday are from 12 noon to 8 p.m., and 10 a.m. to 8 p.m. on Saturday, Sunday, and holidays. Exceptions for special hours may be designated by the physician on an individual or ward basis. Therapy for the patient shall take precedence over visiting and visiting shall not interfere with the patient's treatment program or meals. Visiting hours shall be posted in each institution.

29.1(2) A visit shall be terminated when behavior on the part of the patient or visitor is disruptive to the patient's treatment plan.

29.1(3) Reserved.

29.1(4) Persons wishing to visit patients shall be approved by the patient's attending physician or designee.

29.1(5) Visiting on grounds shall be permitted when the patient has a ground pass.

29.1(6) Visitors wishing to take a patient off grounds shall receive prior approval from the attending physician.

29.1(7) All visitors shall obtain a visitor's pass at the switchboard or another area as designated by the superintendent and posted. The pass shall be given to the ward personnel before the visitor is allowed on the ward.

29.1(8) Persons under 12 years of age shall not visit patients on the wards.

This rule is intended to implement Iowa Code section 218.4.

441—29.2(230) Direct medical services. In determining the charges for services as specified in Iowa Code section 230.20, direct medical services shall include:

29.2(1) X-ray services
29.2(2) Laboratory services
29.2(3) Dental services
29.2(4) Electroconvulsive treatment (ECT)
29.2(5) Electrocardiogram (EKG)
29.2(6) Basal metabolism rate (BMR)
29.2(7) Pharmaceutical services
29.2(8) Physical therapy
29.2(9) Electroencephalograph (EEG)
29.2(10) Outside physician and hospital services billed to the mental health institutes
29.2(11) Optometric services
29.2(12) Outside ambulance services billed to the mental health institutes

This rule is intended to implement Iowa Code section 230.20(1)*"b."*

441—29.3(230) Liability for support. The liability of a person legally liable for support of a mentally ill person after 120 days of hospitalization shall be standard for one person in the family investment program as established in 441—subrule 41.28(2).

This rule is intended to implement Iowa Code section 230.15.

[Filed 4/30/76, Notice 3/22/76—published 5/17/76, effective 6/21/76]
[Filed 9/29/76, Notice 8/23/76—published 10/20/76, effective 11/24/76]
[Filed 6/10/77, Notice 5/4/77—published 6/29/77, effective 8/3/77]
[Filed 9/12/78, Notice 7/26/78—published 10/4/78, effective 12/1/78]
[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 11/25/87, Notice 9/23/87—published 12/16/87, effective 2/1/88]
[Filed 8/11/99, Notice 6/16/99—published 9/8/99, effective 11/1/99]

CHAPTER 30
STATE HOSPITAL-SCHOOLS
[Prior to 7/1/83, Social Services[770] Ch 30]
[Prior to 2/11/87, Human Services[498]]

441—30.1(218) Visiting.

30.1(1) The visiting hours at the state hospital-schools shall be 9 a.m. to 11 a.m.; 1 p.m. to 4 p.m. for on-ward visit; 8:30 a.m. to 8:30 p.m. for off-campus visit. Visiting hours may be extended at the superintendent's or designee's discretion when visitors are from great distances or when able to make only rare visits.

30.1(2) Persons wishing to visit residents must be approved by the resident's treatment team social worker designee prior to the visit.

30.1(3) The resident shall only be available when the resident is not actively involved in a scheduled treatment activity.

30.1(4) A visit shall be terminated when behavior on the part of the resident or visitor is disruptive to the resident's treatment plan.

30.1(5) Visitors wishing to take a resident off grounds shall obtain prior approval from the resident's treatment team social worker or designee.

This rule is intended to implement Iowa Code section 218.4.

441—30.2(222) Liability for support. The liability of any person, other than the patient, who is legally bound for the support of any patient under 18 years of age shall be determined in the same manner as parent liability in rule 441—156.2(234), except that the maximum liability shall not exceed the standards for personal allowances established by the department under the family investment program.

This rule is intended to implement Iowa Code section 222.78.

[Filed 4/30/76, Notice 3/22/76—published 5/17/76, effective 6/21/76]
[Filed 9/29/76, Notice 8/23/76—published 10/20/76, effective 11/24/76]
[Filed 9/12/78, Notice 7/26/78—published 10/4/78, effective 12/1/78]
[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 8/11/99, Notice 6/16/99—published 9/8/99, effective 11/1/99]

CHAPTER 31
REIMBURSEMENT TO COUNTIES FOR LOCAL COST OF INPATIENT MENTAL HEALTH TREATMENT
[Prior to 7/1/83 Social Services[770] Ch 31]
[Prior to 2/11/87, Human Services[498]]
Rescinded IAB 5/5/99, effective 7/1/99

CHAPTER 32
STATE COMMUNITY MENTAL HEALTH AND MENTAL RETARDATION SERVICES FUND AND SPECIAL NEEDS GRANTS
[Prior to 7/1/83, Social Services[770] Ch 32]
[Prior to 2/11/87, Human Services[498]]
Rescinded IAB 5/5/99, effective 7/1/99

CHAPTER 33
COMMUNITY MENTAL HEALTH CENTER STANDARDS
Rescinded 9/29/93 IAB, effective 12/1/93; see 441—Chapter 24, Divisions I, III.

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. A determination of approval or denial shall be made as soon as possible, but no later than 30 days following the date of filing an application. A written notice of decision shall be issued to the applicant the next working day following a determination of eligibility or ineligibility. This time standard shall apply except in unusual circumstances, such as when the county 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 county 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 county 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.3, 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.

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]
[Filed 8/11/99, Notice 6/16/99—published 9/8/99, effective 11/1/99]

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.

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.

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).

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]
[Filed 8/11/99, Notice 6/30/99—published 9/8/99, effective 11/1/99]

◊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 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]
[Filed 8/11/99, Notice 6/30/99—published 9/8/99, effective 11/1/99]

*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.

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) *Individuals under the age of 18 living in a court-approved subsidized guardianship home.* Medical assistance will be available to individuals under the age of 18 living in a court-approved subsidized guardianship home under this subrule provided they are not otherwise eligible for medical assistance under a category for which federal financial participation is available.

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."*

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.

[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]
[Filed emergency 8/12/99 after Notice 6/16/99—published 9/8/99, effective 9/1/99]
[Filed 8/11/99, Notice 6/30/99—published 9/8/99, effective 11/1/99]

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.

441—76.3(249A) Time limit for decision. Applications shall be investigated by the county department of human services. A determination of approval, conditional eligibility, or denial shall be made as soon as possible, but no later than 30 days following the date of filing the application unless one or more of the following conditions exist.

76.3(1) The application is being processed for eligibility under the medically needy coverage group as defined in 441—subrule 75.1(35). Applicants for medically needy shall receive a written notice of approval, conditional eligibility, or denial as soon as possible, but no later than 45 days from the date the application was filed.

76.3(2) An application on the client's behalf for supplemental security income benefits is pending.

76.3(3) The application is pending due to completion of the requirement in 441—subrule 75.1(7).

76.3(4) The application is pending due to nonreceipt of information which is beyond the control of the client or department.

76.3(5) The application is pending due to the disability determination process performed through the department.

76.3(6) Unusual circumstances exist which prevent a decision from being made within the specified time limit. Unusual circumstances include those situations where the county office and the applicant have made every reasonable effort to secure necessary information which has not been supplied by the date the time limit has expired or because of emergency situations such as fire, flood, or other conditions beyond the administrative control of the department.

441—76.4(249A) Notification of decision. The applicant or recipient will be notified in writing of the decision of the local office regarding the applicant's or recipient's eligibility for Medicaid. If the applicant or recipient has been determined to be ineligible an explanation of the reason will be provided.

76.4(1) The recipient shall be given a timely and adequate written notice as provided in 441—subrule 7.7(1) when any decision or action is being taken by the local office which adversely affects Medicaid eligibility or the amount of benefits.

76.4(2) Timely notice may be dispensed with but adequate notice shall be sent, no later than the effective date of action, when one or more of the conditions in 441—subrule 7.7(2) are met.

76.4(3) A written notice of decision shall be issued to the applicant the next working day following a determination of eligibility, conditional eligibility or ineligibility.

441—76.5(249A) Effective date.

76.5(1) *Three-month retroactive eligibility.*

a. Medical assistance benefits shall be available for all or any of the three months preceding the month in which the application is filed to persons who meet both of the following conditions:

(1) Have medical bills for covered services which were received during the three-month retroactive period.

(2) Would have been eligible for medical assistance benefits in the month services were received, if application for medical assistance had been made in that month.

b. The applicant need not be eligible in the month of application to be eligible in any of the three months prior to the month of application.

c. Retroactive medical assistance benefits shall be made available when an application has been made on behalf of a deceased person if the conditions in paragraph *"a"* are met.

d. Persons receiving only supplemental security income benefits who wish to make application for Medicaid benefits for three months preceding the month of application shall complete Form MA-2124-0, Supplementary Information—Medicaid Application—Retroactive Medicaid Eligibility.

e. Rescinded IAB 10/8/97, effective 12/1/97.

76.5(2) *First day of month.*

a. For persons approved for the family medical assistance-related programs, medical assistance benefits shall be effective on the first day of a month when eligibility was established anytime during the month.

b. For persons approved for supplemental security income, programs related to supplemental security income, or state supplementary assistance, medical assistance benefits shall be effective on the first day of a month when the individual was resource eligible as of the first moment of the first day of the month and met all other eligibility criteria at any time during the month.

c. When a request is made to add a new person to the eligible group, and that person meets the eligibility requirements, assistance shall be effective the first of the month in which the request was made.

d. When a request is made to add a person to the eligible group who previously was excluded, in accordance with the provisions of rule 441—75.59(249A), assistance shall be effective no earlier than the first of the month following the month in which the request was made.

76.5(3) *Care prior to approval.* No payment shall be made for medical care received prior to the effective date of approval.

441—76.6(249A) Certification for services. The department of human services shall issue a Medical Assistance Eligibility Card (Fee-for-Service), Form 470-1911, to persons determined to be eligible for the benefits provided under the Medicaid program unless one of the following situations exists:

76.6(1) *Lock-in.* The eligible person is receiving Medicaid under the recipient lock-in provisions defined at rule 441—76.9(249A). These persons shall be issued a Medical Assistance Eligibility Card (Lock-in), Form 470-3348, by the department.

76.6(2) *Managed care.* The eligible person is receiving Medicaid through any form of managed health care as defined at 441—Chapter 88. Those persons shall be issued Form 470-2213, Medical Assistance Eligibility Card (Managed Care).

76.6(3) *Aliens.* The eligible person is an alien who is receiving Medicaid only for emergency services as provided in rule 441—75.11(249A). These persons shall be issued a Medical Assistance Eligibility Card (Limited Benefits), Form 470-2188, by the department.

76.6(4) *Qualified Medicare beneficiary.* The eligible person is receiving Medicaid under the Qualified Medicare Beneficiary program. These persons shall be issued a Medical Assistance Eligibility Card (Limited Benefits), Form 470-2188, by the department.

These persons shall be eligible only for payment of Medicare premiums, deductibles, and coinsurance, as provided in 441—subrule 75.1(29).

76.6(5) *Pregnant woman.* The eligible person is a pregnant woman determined presumptively eligible in accordance with 441—subrule 75.1(30). These persons shall be issued a Presumptive Medicaid Eligibility Notice of Decision, Form 470-2580, by the department.

441—76.7(249A) Reinvestigation. Reinvestigation shall be made as often as circumstances indicate but in no instance shall the period of time between reinvestigations exceed 12 months.

The recipient shall supply, insofar as the recipient is able, additional information needed to establish eligibility within five working days from the date a written request is issued. The recipient shall give written permission for the release of information when the recipient is unable to furnish information needed to establish eligibility. Failure to supply the information or refusal to authorize the county office to secure information from other sources shall serve as a basis for cancellation of Medicaid.

Eligibility criteria for persons whose eligibility for Medicaid is related to the family medical assistance program shall be reviewed according to policies governing monthly and nonmonthly reporters found in rule 441—75.52(249A) except for pregnant women who establish eligibility under 441—subrule 75.1(15) or 75.1(28), or rule 441—75.18(249A). These pregnant women shall be exempt from the policies found in 441—subrule 75.52(1).

Persons whose eligibility for Medicaid is related to supplemental security income shall complete Form 470-3118, Medically Needy Recertification/State Supplementary and Medicaid Review, as part of the reinvestigation process when requested to do so by the county office.

The review for foster children or children in subsidized adoption shall be completed on Form 470-2914, Foster Care and Subsidized Adoption Medicaid Review, according to the time schedule of the family medical assistance program or supplemental security income program for disabled children, as applicable.

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]
[Filed 8/11/99, Notices 6/16/99, 6/30/99—published 9/8/99, effective 11/1/99]

78.13(5) Transportation may be of any type and may be provided from any source. When transportation is by car, the maximum payment which may be made will be the actual charge made by the provider for transportation to and from the source of medical care, but not in excess of the rate per mile payable to state employees for official travel. When public transportation is utilized, the basis of payment will be the actual charge made by the provider of transportation, not to exceed the charge that would be made by the most economical available source of public transportation. In all cases where public transportation is reasonably available to or from the source of care and the recipient's condition does not preclude its use, it must be utilized. When the recipient's condition precludes the use of public transportation, a statement to the effect shall be included in the case record.

78.13(6) In the case of a child too young to travel alone, or an adult or child who because of physical or mental incapacity is unable to travel alone, payment subject to the above conditions shall be made for the transportation costs of an escort. The worker is responsible for making a decision concerning the necessity of an escort and recording the basis for the decision in the case record.

78.13(7) When meals and lodging or other travel expenses are required in connection with transportation, payment will be subject to the same conditions as for a state employee and the maximum amount payable shall not exceed the maximum payable to a state employee for the same expenses in connection with official travel within the state of Iowa.

78.13(8) When the services of an escort are required subject to the conditions outlined above, payment may be made for meals and lodging, when required, on the same basis as for the recipient.

78.13(9) Payment will not be made in advance to a recipient or a provider of medical transportation.

78.13(10) Payment for transportation to receive medical care is made to the recipient with the following exceptions:

a. Payment may be made to the agency which provided transportation if the agency is certified by the department of transportation and requests direct payment by submitting Form 07-350, Purchase Order/Payment Voucher, within 90 days after the trip. Reimbursement for transportation shall be based on a fee schedule by mile or by trip.

b. In cases where the local office has established that the recipient has persistently failed to reimburse a provider of medical transportation, payment may be made directly to the provider.

c. In all situations where one of the department's volunteers is the provider of transportation.

78.13(11) Medical Transportation Claim, MA-3022-1, shall be completed by the recipient and the medical provider and submitted to the local office for each trip for which payment is requested. All trips to the same provider in a calendar month may, at the client's option, be submitted on the same form.

78.13(12) No claim shall be paid if presented after the lapse of three months from its accrual unless it is to correct payment on a claim originally submitted within the required time period. This time limitation is not applicable to claims with the date of service within the three-month period of retroactive Medicaid eligibility on approved applications.

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

441—78.14(249A) Hearing aids. Payment shall be approved for a hearing aid and examinations subject to the following conditions:

78.14(1) *Physician examination.* The recipient shall have an examination by a physician to determine that the recipient has no condition which would contraindicate the use of a hearing aid. This report shall be made on Form 470-0361, Section A, Report of Examination for a Hearing Aid. The requirement for a physician evaluation shall be waived for recipients 18 years of age and older when the recipient has signed an informed consent statement acknowledging that the recipient:

a. Has been advised that it may be in the recipient's best health interest to receive a medical evaluation from a licensed physician prior to purchase of a hearing aid.

b. Does not wish to receive a medical evaluation prior to purchase of a hearing aid.

78.14(2) *Audiological testings.* Specified audiological testing shall be performed by a physician or an audiologist as a part of making a determination that a recipient could benefit from the use of a hearing aid. The audiological testing shall be reported on Form 470-0361, Section B.

78.14(3) *Hearing aid evaluation.* A hearing aid evaluation establishing that a recipient could benefit from a hearing aid shall be made by a physician or audiologist. The hearing aid evaluation shall be reported on Form 470-0828, Hearing Aid Evaluation/Selection Report. When a hearing aid is recommended for a recipient, the physician or audiologist recommending the hearing aid shall see the recipient at least one time within 30 days subsequent to purchase of the hearing aid to determine that the aid is adequate.

78.14(4) *Hearing aid selection.* A physician or audiologist may recommend a specific brand or model appropriate to the recipient's condition. When a general hearing aid recommendation is made by the physician or audiologist, a hearing aid dealer may perform the tests to determine the specific brand or model appropriate to the recipient's condition. The hearing aid selection shall be reported on Form 470-0828, Hearing Aid Evaluation/Selection Report.

78.14(5) *Travel.* When a recipient is unable to travel to the physician or audiologist because of health reasons, payment shall be made for travel to the recipient's place of residence or other suitable location. Payment to physicians shall be made as specified in 78.1(8) and payment to audiologists shall be made at the same rate at which state employees are reimbursed for travel.

78.14(6) *Purchase of hearing aid.* Payment shall be made for the type of hearing aid recommended when purchased from an eligible licensed hearing aid dealer pursuant to rule 441—77.13(249A). Payment for binaural amplification shall be made when:

a. A child needs the aid for speech development, or

b. The aid is needed for educational or vocational purposes, or

c. The aid is for a blind individual.

Payment for binaural amplification shall also be approved where the recipient's hearing loss has caused marked restriction of daily activities and constriction of interests resulting in seriously impaired ability to relate to other people, or where lack of binaural amplification poses a hazard to a recipient's safety.

78.14(7) *Payment for hearing aids.*

a. Payment for hearing aids shall be acquisition cost plus a dispensing fee covering the fitting and service for six months. Payment will be made for routine service after the first six months. Dispensing fees and payment for routine service shall not exceed the fee schedule appropriate to the place of service.

b. Payment for ear mold and batteries shall be at the current audiologist's fee schedule.

c. Payment for repairs shall be made to the dealer for repairs made by the dealer. Payment for in-house repairs shall be made at the current fee schedule. Payment shall also be made to the dealer for repairs when the hearing aid is repaired by the manufacturer or manufacturer's depot. Payment for out-of-house repairs shall be at the amount shown on the manufacturer's invoice. payment shall be allowed for a service or handling charge when it is necessary for repairs to be performed by the manufacturer or manufacturer's depot and this charge is made to the general public.

d. Payment for the replacement of a hearing aid less than four years old shall require prior approval except when the recipient is under 21 years of age. Payment shall be approved when the original hearing aid is lost or broken beyond repair or there is a significant change in the person's hearing which would require a different hearing aid. (Cross-reference 78.28(4)*"a"*)

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

[Filed emergency 11/10/92—published 12/9/92, effective 11/10/92]
[Filed 11/10/92, Notice 9/30/92—published 12/9/92, effective 2/1/93]
[Filed 1/14/93, Notices 10/28/92, 11/25/92—published 2/3/93, effective 4/1/93]
[Filed emergency 4/15/93 after Notice 3/3/93—published 5/12/93, effective 5/1/93]
[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 emergency 7/13/93 after Notice 5/12/93—published 8/4/93, effective 8/1/93]
[Filed emergency 7/14/93—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, Notice 7/7/93—published 9/1/93, effective 11/1/93]
[Filed 9/17/93, Notice 8/4/93—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 9/15/93—published 12/8/93, effective 2/1/94]
[Filed emergency 12/16/93 after Notice 10/13/93—published 1/5/94, effective 1/1/94]
[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 emergency 2/10/94 after Notice 12/22/93—published 3/2/94, effective 3/1/94]
[Filed 3/10/94, Notice 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 8/12/94, Notice 6/22/94—published 8/31/94, effective 11/1/94]
[Filed 9/15/94, Notices 7/6/94, 8/3/94—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 3/5/95]
[Filed 5/11/95, Notices 3/29/95—published 6/7/95, effective 8/1/95]
[Filed 6/7/95, Notice 4/26/95—published 7/5/95, effective 9/1/95]
[Filed 6/14/95, Notice 5/10/95—published 7/5/95, effective 9/1/95]
[Filed 10/12/95, Notice 8/30/95—published 11/8/95, effective 1/1/96]
[Filed 11/16/95, Notices 8/2/95, 9/27/95◊—published 12/6/95, effective 2/1/96]
[Filed 12/12/95, Notice 10/25/95—published 1/3/96, effective 3/1/96]
[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 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 1/15/97, Notice 12/4/96—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 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]

◊ Two ARCs

[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]
[Filed 7/15/99, Notice 6/2/99—published 8/11/99, effective 10/1/99]
[Filed 8/12/99, Notice 6/30/99—published 9/8/99, effective 11/1/99]

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%. 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 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 care	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 $106.08 per day
Individual provider	Fee agreed upon by consumer and provider	$12.24 per hour $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:		
Agency provider	Fee agreed upon by consumer and provider	$18.36 per hour $106.08 per day
Individual provider	Fee agreed upon by consumer and provider	$12.24 per hour $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 $106.08 per day
Individual provider	Fee agreed upon by consumer and provider	$12.24 per hour $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 $106.08 per day
Individual provider	Fee agreed upon by consumer and provider	$12.24 per hour $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 $106.08 per day
Individual provider	Fee agreed upon by consumer and provider	$12.24 per hour $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 $106.08 per day
Individual provider	Fee agreed upon by consumer and provider	$12.24 per hour $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 441—paragraphs 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 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, 1998, and prior to January 1, 1999, 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, 1998, and prior to January 1, 1999.

"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 using paid claims to qualifying providers on or after July 1, 1998, and through June 30, 1999.

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 monthly 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.

[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]
[Filed 7/15/99, Notice 5/19/99—published 8/11/99, effective 10/1/99]
[Filed 8/12/99, Notice 6/30/99—published 9/8/99, effective 11/1/99]

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.

81.20(3) Payment for periods when residents are absent for visitation or hospitalization will be made to out-of-state facilities at 75 percent of the rate paid to the facility by the Iowa Medicaid program.

81.20(4) Rescinded IAB 3/20/91, effective 3/1/91.

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

441—81.21(249A) Outpatient services. Medicaid outpatient services provided by certified skilled nursing facilities are defined in the same way as the Medicare program.

This rule is intended to implement Iowa Code section 249A.4 and 1991 Iowa Acts, House File 479, section 132, subsection 1, paragraph *"i."*

441—81.22(249A) Rates for Medicaid eligibles.

81.22(1) *Maximum client participation.* A nursing facility may not charge more client participation for Medicaid-eligible clients as determined in rule 441—75.16(249A) than the maximum monthly allowable payment for their facility as determined according to subrule 79.1(9) or rule 441—81.6(249A). When the department makes a retroactive increase in the maximum daily rate, the nursing facility can charge the client the increased amount for the retroactive period.

81.22(2) *Beginning date of payment.* When a resident becomes eligible for Medicaid payments for facility care, the facility shall accept Medicaid rates effective when the resident's Medicaid eligibility begins. A nursing facility is required to refund any payment received from a resident or family member for any period of time during which the resident is determined to be eligible for Medicaid.

Any refund owing shall be made no later than 15 days after the nursing facility first receives Medicaid payment for the resident for any period of time. Facilities may deduct the resident's client participation for the month from a refund of the amount paid for a month of Medicaid eligibility.

The beginning date of eligibility is given on the Facility Card, Form 470-0371. When the beginning Medicaid eligibility date is a future month, the facility shall accept the Medicaid rate effective the first of that future month.

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

441—81.23 to **81.30** Reserved.

DIVISION II
ENFORCEMENT OF COMPLIANCE

PREAMBLE

These rules specify remedies that may by used when a nursing facility is not in substantial compliance with the requirements for participation in the Medicaid program. These rules also provide for ensuring prompt compliance and specify that these remedies are in addition to any others available under state or federal law.

441—81.31(249A) Definitions.

"Deficiency" means a skilled nursing facility's or nursing facility's failure to meet a participation requirement.

"Department" means the Iowa department of human services.

"HCFA" means the Health Care Financing Administration of the federal Department of Health and Human Services.

"Immediate jeopardy" means a situation in which immediate corrective action is necessary because the provider's noncompliance with one or more requirements of participation has caused, or is likely to cause, serious injury, harm, impairment, or death to a resident.

"New admission" means a resident who is admitted to the facility on or after the effective date of a denial of payment remedy and, if previously admitted, has been discharged before that effective date. Residents admitted before the effective date of the denial of payment, and taking temporary leave, are not considered new admissions, nor are they subject to the denial of payment.

"Noncompliance" means any deficiency that causes a facility to not be in substantial compliance.

"Plan of correction" means a plan developed by the facility and approved by the department of inspections and appeals which describes the actions the facility shall take to correct deficiencies and specifies the date by which those deficiencies shall be corrected.

"Standard survey" means a periodic, resident-centered inspection which gathers information about the quality of service furnished in a facility to determine compliance with the requirements for participation.

"Substandard quality of care" means one or more deficiencies related to the participation requirements for resident behavior and facility practices, quality of life, or quality of care which constitute either immediate jeopardy to resident health or safety; a pattern of or widespread actual harm that is not immediate jeopardy; or a widespread potential for more than minimal harm, but less than immediate jeopardy, with no actual harm.

"Substantial compliance" means a level of compliance with the requirements of participation such that any identified deficiencies pose no greater risk to resident health or safety than the potential for causing minimal harm.

"Temporary management" means the temporary appointment by the department of inspections and appeals of a substitute facility manager or administrator with authority to hire, terminate or reassign staff, obligate facility funds, alter facility procedures, and manage the facility to correct deficiencies identified in the facility's operation.

441—81.32(249A) General provisions.

81.32(1) *Purpose of remedies.* The purpose of remedies is to ensure prompt compliance with program requirements.

81.32(2) *Basis for imposition and duration of remedies.* The department of inspections and appeals, as the state survey agency under contract with the department, determines the remedy to be applied for noncompliance with program requirements. When the department of inspections and appeals chooses to apply one or more remedies specified in rule 441—81.34(249A), the remedies are applied on the basis of noncompliance found during surveys conducted by the department of inspections and appeals.

81.32(3) *Number of remedies.* The department of inspections and appeals may apply one or more remedies for each deficiency constituting noncompliance or for all deficiencies constituting noncompliance.

81.32(4) *Plan of correction requirement.*

a. Except as specified in paragraph *"b,"* regardless of which remedy is applied, each facility that has deficiencies with respect to program requirements shall submit a plan of correction for approval by the department of inspections and appeals.

b. A facility is not required to submit a plan of correction when the department of inspections and appeals determines the facility has deficiencies that are isolated and have a potential for minimal harm, but no actual harm has occurred.

81.32(5) *Disagreement regarding remedies.* If the department of inspections and appeals and HCFA disagree on the decision to impose a remedy, the disagreement shall be resolved in accordance with rule 441—81.55(249A).

[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]
[Filed 8/12/99, Notices 5/5/99, 6/30/99—published 9/8/99, effective 11/1/99]

*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]
[Filed 8/11/99, Notice 6/30/99—published 9/8/99, effective 11/1/99]

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]
[Filed 8/11/99, Notice 6/30/99—published 9/8/99, effective 11/1/99]

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.

[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]
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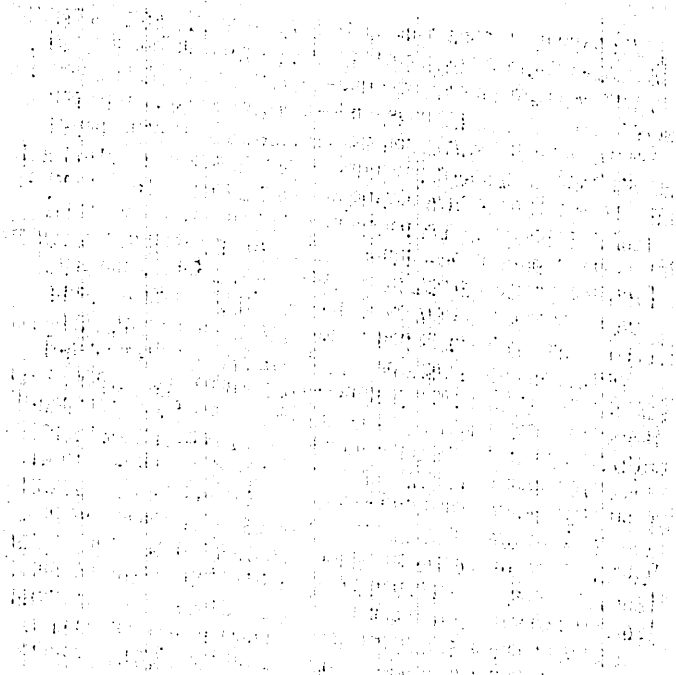
[Filed 9/17/96, Notices 7/3/96, 7/31/96—published 10/9/96, effective 12/1/96]
[Filed emergency 6/12/97—published 7/2/97, effective 7/1/97]
[Filed 8/13/97, Notice 7/2/97—published 9/10/97, effective 11/1/97]
[Filed 9/16/97, Notice 7/16/97—published 10/8/97, effective 12/1/97]
[Filed emergency 6/10/98—published 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]
[Filed 8/12/99, Notice 6/30/99—published 9/8/99, effective 11/1/99]



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]
[Filed 7/15/99, Notice 6/2/99—published 8/11/99, effective 10/1/99]
[Filed 8/12/99, Notice 6/30/99—published 9/8/99, effective 11/1/99]

*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]
[Filed 7/15/99, Notice 6/2/99—published 8/11/99, effective 10/1/99]
[Filed 8/12/99, Notice 6/30/99—published 9/8/99, effective 11/1/99]

CHAPTER 158
FOSTER HOME INSURANCE FUND

PREAMBLE

These rules implement the provisions of the foster home insurance fund. These rules define eligible claims, the payment limits for claims, the procedure for filing claims, and the time frames for filing claims.

441—158.1(237) Payments from the foster home insurance fund.

158.1(1) *Eligible foster family claims.* The foster home insurance fund shall pay the following within the limits defined in Iowa Code section 237.13, subsections 3 and 4:

a. Valid and approved claims of family foster care children, their parents, guardians or guardians ad litem.

b. Compensation to licensed foster families for property damage, at replacement cost, or for bodily injury, as a result of the activities of the family foster care child.

c. Reasonable and necessary legal fees incurred by licensed foster families in defense of civil claims filed pursuant to Iowa Code section 237.13, subsection 7, paragraph *"d,"* and any judgments awarded as a result of these claims. The reasonableness and necessity of legal fees shall be determined by the department or its contract agent.

158.1(2) *Eligible guardian and conservator claims.* The foster home insurance fund shall pay the reasonable and necessary legal costs incurred by a guardian or conservator in defending against a suit filed by an eligible ward or the ward's representative and the damages awarded as a result of the suit within the limits defined in Iowa Code section 237.13, subsection 5. The reasonableness and necessity of legal fees shall be determined by the department or its contract agent. To be eligible a ward must meet the following conditions:

a. The ward's income at the time covered by the suit determined in accordance with 441—subrule 130.3(3) must not exceed $920.

b. The ward's resources shall be treated in accordance with Supplemental Security Income policies except that one residence which shall be the homestead if exempt under SSI and one vehicle shall be excluded. Resources shall not exceed $2,000.

441—158.2(237) Payment limits. The fund is not liable for the first $100 for all claims arising out of one or more occurrences during a fiscal year related to a single foster home. The fund is not liable for claims in excess of $300,000 for all claims based on one or more occurrences during a fiscal year related to a single home.

441—158.3(237) Claim procedures. Claims against the fund shall be filed with the department's contractor. If the department does not have a contractor, claims shall be filed on Form 470-2470, Foster Home Insurance Fund Claim. The decision to approve or deny the claim shall be made by the department or its contractor and the notice mailed or given to the claimant within 180 days of the date the claim is received.

441—158.4(237) Time frames for filing claims.

1. Claims by children who were under the age of 18 at the time of the occurrence shall be submitted within two years of the date of the occurrence, or after the child's eighteenth birthday, but before the child's nineteenth birthday.

2. Claims by persons who were aged 18 or older at the time of the occurrence, parents, foster parents, guardians, or guardians ad litem shall be submitted within two years of the occurrence.

3. Claims by foster parents and by guardians or conservators pursuant to subrules 158.1(1)*"c"* and 158.1(2) for legal fees or court-ordered judgments shall be submitted within two years of the date of the judgment.

441—158.5(237) Appeals. Claimants dissatisfied with the decision may request a fair hearing under the provisions of 441—Chapter 7.

These rules are intended to implement Iowa Code section 237.13.

[Filed emergency 6/9/88—published 6/29/88, effective 7/1/88]
[Filed 9/2/88, Notice 6/29/88—published 9/21/88, effective 11/1/88]
[Filed 11/9/94, Notice 9/28/94—published 12/7/94, effective 2/1/95]
[Filed 8/12/99, Notice 6/16/99—published 9/8/99, effective 11/1/99]

441—163.9(234) Termination of contract. The contract may be terminated by either party at any time during the contract period by giving 30 days' notice to the other party.

163.9(1) The department may terminate a contract upon ten days' notice when the provider or any of its subcontractors fail to comply with the grant award stipulations, standards, or conditions.

163.9(2) Within 45 days of the termination, the provider shall supply the department with a financial statement detailing all costs up to the effective date of the termination.

163.9(3) The department shall administer the funds for this program contingent upon their availability. If the department lacks the funds necessary to fulfill its fiscal responsibility under this program, the contracts shall be terminated or renegotiated.

441—163.10(234) Appeals. Applicants dissatisfied with the grant designation committee's decision may file an appeal with the director. The letter of appeal must be received within ten working days of the date of the notice of decision; must be based on a contention that the process was conducted outside of statutory authority, violated state or federal law, policy or rule, did not provide adequate public notice, was altered without adequate public notice, or involved conflict of interest by staff or committee members; and must include a request for the director to review the decision and the reasons for dissatisfaction. Within ten working days of the receipt of the appeal the director will review the appeal request and issue a final decision.

No disbursements will be made to any applicant for a period of ten calendar days following the notice of decision. If an appeal is filed within the ten days, all disbursements will be held pending a final decision on the appeal. All applicants involved will be notified if an appeal is filed and given the opportunity to be included as a party in the appeal.

These rules are intended to implement Iowa Code section 234.6.

[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 6/9/89—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 emergency 6/14/90—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 9/18/91, Notice 7/10/91—published 10/16/91, effective 12/1/91]
[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 10/14/98, Notice 8/26/98—published 11/4/98, effective 1/1/99]

CHAPTER 164
FOSTER CARE PROJECT GRANTS
Rescinded IAB 9/8/99, effective 11/1/99

[illegible]

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]
[Filed 8/12/99, Notice 6/30/99—published 9/8/99, effective 11/1/99]

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.

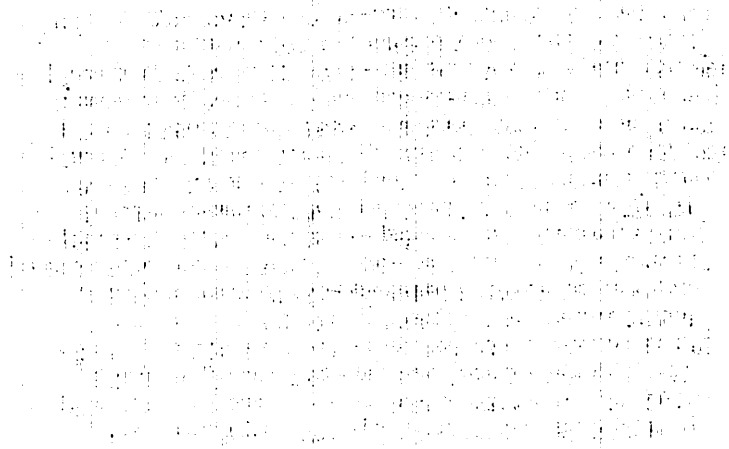
441—170.8(234) Allocation of funds. The department shall allocate funds for child care services to the regional offices of the department to ensure that the current need and projected growth in services to families currently receiving child care services and to families with protective child care needs 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]
[Filed 8/12/99, Notice 6/30/99—published 9/8/99, effective 11/1/99]



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]
[Filed 7/14/99, Notice 6/2/99—published 8/11/99, effective 10/1/99]
[Filed 8/12/99, Notice 6/30/99—published 9/8/99, effective 11/1/99]

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.

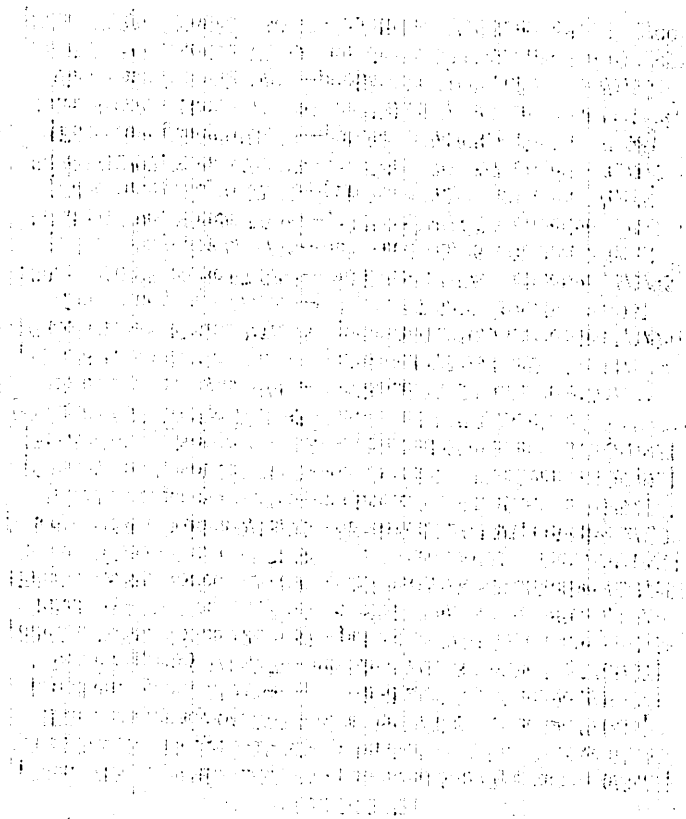
201.11(2) The department shall serve as payee to receive the child's unearned income. The income shall be placed in an account from whence it shall be applied toward the cost of the child's current care and the remainder placed in an escrow account.

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]
[Filed 7/15/99, Notice 6/2/99—published 8/11/99, effective 10/1/99]
[Filed 8/12/99, Notice 6/30/99—published 9/8/99, effective 11/1/99]



441—202.13(234) Removal of the child.

202.13(1) When the department plans to remove a child from a facility, the facility shall be informed in writing of the date of the removal, the reason for the removal, the recourse available to the facility, if any, and that the chapter 17A contested case proceeding is not applicable to the removal. The department shall inform the facility ten days in advance of the removal, except that the facility may be informed less than ten days prior to the removal in the following instances:

a. When the parent or guardian removes the child from voluntary placement.

b. When the court orders removal of a child from placement.

c. When there is evidence of neglect or physical or sexual abuse.

202.13(2) The department may remove a child from a facility when any of the following conditions exist:

a. There is evidence of abuse, neglect, or exploitation of the child.

b. The child needs a specialized service that the facility does not offer.

c. The child is unable to benefit from the placement as evidenced by lack of progress of the child.

d. There is evidence the facility is unable to provide the care needed by the child and fulfill its responsibilities under the case plan.

e. There is lack of cooperation of the facility with the department.

202.13(3) If a foster family objects in writing within seven days from the date that the information of plans to remove the child is mailed, the regional administrator shall grant a conference to the foster family to determine that the removal is in the child's best interest.

This conference shall not be construed to be a contested case under the Iowa administrative procedure Act, Iowa Code chapter 17A.

The conference shall be provided before the child is removed except in instances listed in 202.13(1)*"a"* to *"c."* The regional administrator shall review the propriety of the removal and explain the decision to the foster family.

The regional administrator, on finding that the removal is not in the child's best interests, may overrule the removal decision unless a court order or parental decision prevents the department from doing so.

202.13(4) When the facility requests a child be removed from its care, it shall give a minimum of ten days' notice to the department so planning may be made on behalf of the child.

This rule is intended to implement Iowa Code section 234.6(6)*"b."*

441—202.14(234) Termination. The foster care services shall be terminated when the child is no longer an eligible child, or when the attainment of goals in the case plan has been achieved, or when the goals for whatever reasons cannot be achieved, or when it is evident that the family or individual is unable to benefit from the service or unwilling to accept further services.

This rule is intended to implement Iowa Code section 234.6(6)*"b."*

441—202.15(234) Case permanency plan.

202.15(1) The department worker shall ensure that a case permanency plan is developed for each child who is placed in foster care if the department has agreed to provide foster care through a voluntary placement agreement, if a court has transferred custody or guardianship to the department for the purpose of foster care, or if a court has placed the child in foster care and ordered the department to supervise the placement.

202.15(2) The department worker shall develop the case permanency plan with the child's parents, unless the child's parents are unwilling to participate in the plan's development, and with the child, unless the child is unable or unwilling to participate.

202.15(3) The department worker shall be responsible for ensuring the development of the case permanency plan within the time frames specified in rule 441—130.7(234). In all cases, the case permanency plan shall be completed within 60 days of the date the child entered foster care.

202.15(4) Copies of the initial and subsequent case permanency plans shall be provided to the child, the child's parents, and the foster care provider. Copies shall also be provided to the following, if involved in services to the child: the juvenile court officer, the judge, the child's attorney, the child's guardian ad litem, the child's guardian, the child's custodian, the child's court appointed special advocate, the parents' attorneys, the county attorney, the state foster care review board, and any other interested parties identified on Form 427-1020, Face Sheet.

202.15(5) The initial and subsequent case permanency plans shall be completed on the forms specified in rule 441—130.7(234).

202.15(6) If the need arises to add a new problem or responsibility prior to the next scheduled review, the department worker shall send a copy of Forms 427-1021, Case Permanency Plan Review and 427-1023, The Problem and Responsibility List, with a cover letter to the judge, if applicable, and all interested parties identified on Form 427-1020, Face Sheet, to advise them of the amendment to the case permanency plan.

441—202.16(135H) Department approval of need for a psychiatric medical institution for children.

202.16(1) Applicants for departmental approval of need shall submit the following to the division of adult, children and family services:

a. A description of the population to be served, including age, sex, and types of disorders, and an estimate of the number of these youth in need of psychiatric care in the area of the state in which the applicant is located.

b. A statement of the number of beds requested and a description of the treatment program to be provided, the outcomes to be achieved and the techniques for measuring outcomes.

c. A proposed date of operation as a psychiatric medical institution for children.

d. A description of the applicant's experience with providing similar services to youth, especially the target population.

e. A description of the applicant's plan, including the timeline for achieving accreditation to provide psychiatric services from a federally recognized accrediting organization under the organization's standards for residential settings and licensure as a psychiatric medical institution for children, or a copy of the organization's report if already accredited.

f. References from the regional administrator for the department region in which the proposed psychiatric medical institution for children would be located, the chief juvenile court officer of the judicial district in which the proposed psychiatric medical institution for children would be located and the applicant's licensor from the department of inspections and appeals or department of public health.

202.16(2) The department shall evaluate proposals and issue a decision based on the following criteria:

a. The number of psychiatric medical institutions for children beds for the proposed population which are needed in the area of the state in which the facility would be located, based on the department's most recent needs assessment.

b. The steps the facility has taken towards achieving accreditation from a federally recognized accrediting organization and licensure as a psychiatric medical institution for children.

c. The applicant's ability to provide services and support consistent with the requirements under Iowa Code chapter 232 including, but not limited to, evidence that:

(1) Children will be served in a setting which is in close proximity to their parents' home.

(2) Each child will receive services consistent with the child's best interests and special psychiatric needs as identified in the child's case permanency plan.

(3) Children and their families will receive services to facilitate the children's return home or other permanent placement.

d. The applicant's ability to provide children with a non-hospital-type living environment if the applicant is not freestanding from a hospital or health care facility.

e. The limits on the number of beds found in Iowa Code section 135H.6, subsection 5.

202.16(3) If a facility has not been licensed as a psychiatric medical institution for children within one year after the date of the department's approval of need, the department's approval shall expire unless the department has approved an extension. An extension may be approved up to a maximum of six months if the agency has documented extenuating circumstances which prevented completion of the licensing process.

This rule is intended to implement Iowa Code section 135H.6.

441—202.17(232) Regional group care targets.

202.17(1) *Regional target.* A group care budget target shall be established for each departmental region which shall be based on the annual statewide group care appropriation established by the general assembly.

a. The department and the judicial branch shall jointly develop a formula for allocating the group care appropriation among the departmental regions. The formula shall be based on:

(1) Proportional child population.

(2) Proportional group foster care usage in the previous five completed fiscal years.

(3) Other indicators of need.

b. Any portion of the group care appropriation allocated for 50 highly structured juvenile program beds and not used may be used for group care.

c. Upon written agreement of the affected regional administrators and chief juvenile court officers, regions may transfer part of their group care budget from one region to another. A region may exceed its budget target figure up to 5 percent during the fiscal year, providing that the overall funding allocation by the department for all child welfare services in the region is not exceeded.

d. Notwithstanding the statewide appropriation established in this subrule, a budget established in a region's group care plan pursuant to Iowa Code section 232.143 may be exceeded, a group care placement may be ordered, and state payment may be made if the review organization finds that the placement is necessary to meet the child's service needs and if the region has additional funds transferred from another region or if the region is within 5 percent of its group care budget target figure pursuant to 441—paragraph 202.17(1)*"c."*

The department and juvenile court services shall work together to ensure that a region's group care expenditures shall not exceed the funds allocated to the region for group care in the fiscal year.

e. If at any time after September 30, 1998, annualization of a region's current expenditures indicates a region is at risk of exceeding its group foster care expenditure target under Iowa Code section 232.143 by more than 5 percent, the department and juvenile court services shall examine all group foster care placements in that region in order to identify those which might be appropriate for termination. In addition, any aftercare services believed to be needed for the children whose placements may be terminated shall be identified. The department and juvenile court services shall initiate action to set dispositional review hearings for the placements identified. In the dispositional review hearing, the juvenile court shall determine whether needed aftercare services are available and whether termination of the placement is in the best interest of the child and the community.

202.17(2) *Regional plan for achieving target.* For each of the departmental regions, representatives appointed by the department and juvenile court services shall establish a plan for containing the expenditure for children placed in group care within the budget target allocated to that region. The plan shall include monthly targets and strategies for developing alternatives to group care placements.

The plans shall also ensure potential group care referrals are reviewed by the review organization prior to submission of a recommendation for group care placement to the court.

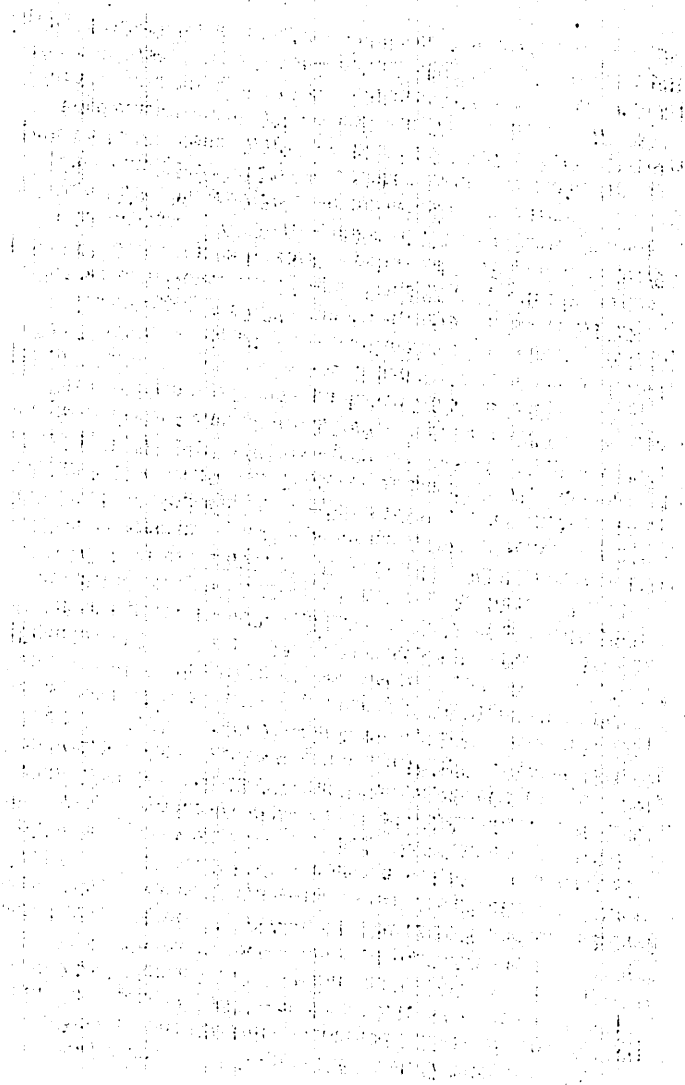
Each regional plan shall be established in advance of the fiscal year to which the regional plan applies. To the extent possible, the department and the juvenile court shall coordinate the planning required under this subrule with planning for services paid under Iowa Code section 232.141, subsection 4. The department's regional administrator shall communicate regularly, as specified in the regional plan, with the juvenile courts within the region concerning the current status of the regional plan's implementation.

This rule is intended to implement Iowa Code section 232.143.

[Filed 9/28/77, Notice 8/10/77—published 10/19/77, effective 11/23/77]
[Filed 9/6/79, Notice 6/27/79—published 10/3/79, effective 11/7/79]
[Filed 10/23/80, Notice 9/3/80—published 11/12/80, effective 12/17/80]
[Filed 11/5/82, Notice 9/15/82—published 11/24/82, effective 1/1/83]
[Filed 3/25/83, Notices 9/29/82, 11/24/82—published 4/13/83, effective 7/1/83]
[Filed 10/28/83, Notice 9/14/83—published 11/23/83, effective 1/1/84]
[Filed 11/18/83, Notice 10/12/83—published 12/7/83, effective 2/1/84]
[Filed emergency 2/10/84—published 2/29/84, effective 2/10/84]
[Filed 4/2/84, Notice 2/1/84—published 4/25/84, effective 6/1/84]
[Filed emergency 8/31/84—published 9/26/84, effective 10/1/84]
[Filed emergency 6/14/85—published 7/3/85, effective 7/1/85]
[Filed 8/23/85, Notice 7/3/85—published 9/11/85, effective 11/1/85]

[Filed emergency 1/15/87—published 2/11/87, effective 1/15/87]
[Filed 3/3/87, Notice 12/31/86—published 3/25/87, effective 5/1/87]
[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 9/24/87, Notice 8/12/87—published 10/21/87, effective 12/1/87]
[Filed 11/25/87, Notice 10/7/87—published 12/16/87, effective 2/1/88]
[Filed 4/22/88, Notice 2/10/88—published 5/18/88, effective 7/1/88]
[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 10/11/89]
[Filed 9/15/89, Notice 7/26/89—published 10/4/89, effective 12/1/89]
[Filed 5/17/91, Notice 4/3/91—published 6/12/91, effective 8/1/91]
[Filed 9/18/91, Notice 7/10/91—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 2/13/92, Notice 1/8/92—published 3/4/92, effective 5/1/92]
[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, Notices 5/27/92, 7/8/92—published 9/2/92, effective 11/1/92]
[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, Notices 2/17/93, 7/7/93—published 9/1/93, effective 11/1/93]
[Filed 12/16/93, Notice 9/1/93—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]
[Filed 3/20/95, Notice 1/18/95—published 4/12/95, effective 6/1/95]
[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 12/12/95, Notice 10/25/95—published 1/3/96, effective 3/1/96]
[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 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 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 8/12/99, Notice 6/30/99—published 9/8/99, effective 11/1/99]

*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.



CHAPTER 204
SUBSIDIZED GUARDIANSHIP PROGRAM

PREAMBLE

This chapter implements a subsidized guardianship program to provide financial assistance to guardians of eligible children who are not able to be adopted and who are not able to return home. This program will allow children a more permanent placement than they have in foster care.

441—204.1(234) Definitions.

"Child" means a person who has not attained the age of 18.

"Department" means the Iowa department of human services.

"Guardianship subsidy" means a monthly payment to assist in covering the cost of room, board, clothing, and spending money for the child.

441—204.2(234) Eligibility.

204.2(1) *General conditions of eligibility.* The guardian named in a permanency order under Iowa Code section 232.104(2)*"d"*(1) for a child who was previously in the custody of the department is eligible for subsidy when all of the following conditions exist:

a. The department has determined the option of reunification has been eliminated and termination of parental rights is not appropriate.

b. The child is in foster care subsidized by the department at the time of application and has lived in foster care for at least 12 months of the last 18 months.

c. The child is either 14 years of age or older or, if under 14 years of age, is part of a sibling group with a child aged 14 or older and cannot be made available for adoption.

d. The placement does not require departmental supervision.

e. The guardian is a person, not an agency.

204.2(2) *Residency.* The subsidized guardianship applicant or recipient need not reside in Iowa.

204.2(3) *Unearned income.* Unearned income of the child from sources such as social security, veterans administration, railroad compensation, trust funds, and the family's insurance shall also be used before subsidy funds are expended. The guardian shall provide to the department worker documentation from any source of the child's unearned income.

204.2(4) *Other services.* Other services available to the guardian free of charge to meet the needs of the child, such as other federal, state, and local governmental and private assistance programs, shall be explored and used prior to the expenditure of subsidy funds.

441—204.3(234) Application. Applications for the subsidized guardianship program may be made at any county office of the department.

204.3(1) *Application forms.* Application for guardianship subsidy shall be made on Form 470-3632, Application for Guardianship Subsidy.

204.3(2) *Eligibility determination.* The determination of whether a child meets eligibility requirements is made by the department. The person shall be notified in writing of the decision of the county office regarding the person's eligibility for the program and the amount of the subsidy to be made.

204.3(3) *Effective date.* The effective date of the subsidy payment shall be the date the guardianship order is signed if all other conditions of eligibility are met.

204.3(4) *Redetermination.* The department worker shall review the child's eligibility, the needs of the child, and the child's unearned income every 12 months. Reviews may be done more often if needed because of the child's need for a special service, revision of the subsidy amount because of the child's age, or a request for review by the guardian. The amount of subsidy may be renegotiated at the time of review.

441—204.4(234) Negotiation of amount of subsidy.

204.4(1) *Subsidy agreement.* The amount of subsidy shall be negotiated between the department and the guardian, and shall be based upon the needs of the child, and the circumstances of the family. Each time negotiations are completed, the Guardianship Subsidy Agreement, Form 470-3631, shall be completed and signed by the guardian and the department worker.

204.4(2) *Amount of subsidy.* The department shall enter into the agreement based upon available funds. A guardianship subsidy shall be no less than $10 per month. The maximum monthly payment for a child in subsidized guardianship shall be made equal to the foster family care maintenance rate according to the age and special needs of the child as found at 441—subrule 156.6(1) and 441—paragraphs 156.6(4)*"a"* and *"b."*

204.4(3) *Placement outside of home.* If a child needs to be placed out of the guardian's home for treatment and the plan is for the child to return to the family, a partial subsidy amount may be negotiated.

441—204.5(234) Parental residual rights and responsibilities. Parental residual rights and responsibilities are not affected by the subsidy. These may be set out or limited in the guardianship order and may include visitation, consent to adoption, support and lines of inheritance.

These payments are considered foster care payments for purposes of child support recovery and as such create a support debt for the parents.

441—204.6(234) Termination of subsidy. The subsidy shall terminate when any of the following occur, and a notice shall be sent which states the reason for the termination:

1. The child no longer meets the definition of "child."
2. The child marries.
3. The guardian is no longer using the maintenance payments to support the child.
4. Upon the death of the child, or the death of the guardian of the child (one in a single-parent family and both in a two-parent family).
5. Upon conclusion of the terms of the agreement.
6. Upon request of the guardian.
7. The guardian is no longer legally responsible for the child.
8. The family fails to participate in the renewal process.
9. The juvenile court closes its guardianship case.
10. The department funds for subsidized guardianship are no longer available.

441—204.7(234) Reinstatement of subsidy. Reinstatement of the subsidy shall be made when the subsidy was terminated because of a reason in rule 441—204.6(234), numbered paragraph "3," "6," or "8," and the reason for termination no longer exists.

441—204.8(234) Appeals. The guardian may appeal adverse determination pursuant to 441—Chapter 7.

441—204.9(234) Medical assistance. Children eligible for subsidy are entitled to medical assistance as defined in 441—Chapter 75. 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 guardian.

The funding source for medical assistance is based on the following criteria:

1. Children from Iowa residing in Iowa shall be covered by Iowa's medical assistance.

2. Children from Iowa residing in another state shall receive medical assistance from the state of residence if eligible. Iowa shall provide medical assistance for children not eligible in their state of residence. Medical assistance available in the family's state of residence may vary from Iowa's medical assistance.

3. 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.

These rules are intended to implement Iowa Code section 234.6 and 1999 Iowa Acts, House File 760, section 15, subsection 9.

[Filed emergency 8/12/99 after Notice 6/16/99—published 9/8/99, effective 9/1/99]

CHAPTER 205
Reserved

CHAPTER 206
COMMUNITY SUPERVISED APARTMENT LIVING ARRANGEMENTS SERVICES PROGRAM

[Prior to 2/11/87, Human Services[498]]

PREAMBLE

The intent of this chapter is to establish requirements for the purchase of community supervised apartment living arrangements for adults by the department of human services. Community supervised apartment living arrangements is a program of services for adults with mental illness, mental retardation or developmental disabilities who are capable of living semi-independently. Services are provided to enable the adults to live in the community with minimal supervision. Community supervised apartment living arrangements are approved by the department according to rules found in 441—Chapter 36.

441—206.1(234) Definitions.

"Adult" means a person 18 years of age or older or a minor who has attained majority by marriage.

"Approved provider" means an agency that has been approved to provide community supervised apartment living arrangements according to 441—Chapter 36.

"Community supervised apartment living arrangements" means the provision of or assistance to secure a residence, and supervision of one or more persons who have mental illness, mental retardation, or a developmental disability and who are capable of living semi-independently in a community setting.

"Community supervised apartment living arrangements services program" means a program of service as defined in rule 441—36.3(225C).

"Department" means the Iowa department of human services.

"Project manager" means a department employee who is designated as responsible for the development, monitoring, and evaluation of service arrangements with agencies that provide a community supervised apartment living arrangement program of services.

441—206.2(234) Client eligibility.

206.2(1) *Financial.* Financial eligibility shall be determined according to rule 441—130.3(234).

206.2(2) *Need for service.* The need for community supervised apartment living arrangements program of services shall be established in accordance with 441—Chapter 130. The person shall also meet the following conditions:

a. The person shall require minimal supervision but not the level of care and supervision provided in licensed residential care facilities as supported by Form SS-1719, Physician's Report.

b. The person shall be diagnosed as mentally ill, mentally retarded, or developmentally disabled as defined in rule 441—36.1(225C).

c. The person shall be an adult as defined in rule 441—206.1(234).

441—206.3(234) Goals. Appropriate goals for persons living in community supervised living arrangements are those described in 441—subrule 130.7(1), paragraphs *"a," "b,"* and *"d."*

441—206.4(234) Elements of service provision.

206.4(1) *Provider standards.* Services under this chapter shall be purchased by the department only from a provider who has been approved pursuant to 441—subrule 36.10(1) or 36.10(2). The provider shall submit a copy of the department's approval to the project manager.

206.4(2) *Required services.* The provider shall ensure that certain services outlined in 441—subrule 36.3(1) and defined in rule 441—36.1(225C) are available to the client as needed: Service coordination services, diagnostic and evaluation services, community living skills training, self-care training, support, and transportation services. In addition, the provider shall ensure that the client receives necessary supervision as required in 441—subrule 36.2(2).

The provider may deliver the services directly or subcontract for the services from another provider. If some services are delivered by subcontracting, the provider shall include the costs for these services in its unit rate. No payment shall be allowed for the other services outlined in 441—subrule 36.3(1).

206.4(3) *Method of payment.* The provider may request a reimbursement rate be established on a per diem or a per hour basis. Rates will be developed in accordance with the requirements and procedures in 441—Chapter 150 for purchase of service providers.

206.4(4) *Department responsibilities.* Social casework and case plan development shall adhere to the provisions of rules 441—130.6(234) and 441—130.7(234). A copy of the case plan shall be submitted to the provider at the time of admission.

206.4(5) *Service provider responsibilities.* The provider shall adhere to the following guidelines:

a. The provider shall submit a written report to the department and the individual case management service provider if different than the department summarizing the results of the diagnostic and evaluation services as required in 441—subrule 36.6(3) within 30 days following the client's admission to the program and no less than annually thereafter. However, the report need not include any diagnostic or evaluation information supplied by the department or the individual case management service provider.

b. The provider shall submit a copy of the social history as required by 441—subrule 36.6(5) to the department and the individual case management service provider if different than the department within 30 days of the client's admission to the program. However, the report need not include any information supplied by the department or the individual case management service provider.

c. The provider shall submit a copy of the individual program plan as required in 441—subrule 36.6(6) to the department and the individual case management service provider if different than the department within 30 days following the client's admission to the program and no less than annually thereafter.

d. Based on ongoing service coordination responsibilities as defined in rule 441—36.1(225C) and 441—subrule 36.6(4), the provider shall at any time during the provision of service, communicate to the department and the individual case management service provider, if different than the department, any needs identified in the department case plan or the individual program plan which are not adequately addressed.

441—206.5(234) Adverse service actions. Services may be denied, terminated, or reduced according to the provisions of rule 441—130.5(234).

441—206.6(234) Appeals. Notice of adverse actions and the right of appeal shall be given clients in accordance with 441—Chapter 7.

441—206.7(234) Compliance transition period. All purchase of service contracts for community supervised living arrangements services shall comply with subrule 206.4(1) no later than six months from the effective date. During this six-month transition period, a purchase of service contract may be entered into prior to the department's approval of the provider's program pursuant to 441—subrule 36.10(1) or 36.10(2) if copies of the following are submitted to and approved by the project manager:

206.7(1) A copy of the provider's Application for Approval of a Community Supervised Living Arrangements Program, Form 470-2070.

206.7(2) The provider's operating plan.

206.7(3) A completed Self-Survey Form, Form 470-2068.

206.7(4) A corrective action plan which gives time frames for implementation for each standard that the provider indicates on the self-survey form is out of compliance.

These rules are intended to implement Iowa Code section 234.6 and 1985 Iowa Acts, chapter 259, section 1.

[Filed 4/29/86, Notice 3/12/86—published 5/21/86, effective 7/1/86]
[Filed emergency 1/15/87—published 2/11/87, effective 1/15/87]
[Filed 5/12/89, Notice 2/8/89—published 5/31/89, effective 8/1/89]

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CHAPTER 24
BLUFFLANDS PROTECTION PROGRAM AND REVOLVING LOAN FUND

571—24.1(161A) Purpose. The purpose of this chapter is to establish policies and procedures for the administration of the blufflands protection revolving loan fund program. The fund was established by 1999 Iowa Acts, chapter 1219, section 17, to provide assistance to private conservation organizations in the acquisition and protection of significant blufflands along the Iowa side of the Mississippi River and Missouri River.

571—24.2(161A) Allocation of funds. As specified in Iowa Code section 161A.80, 50 percent of available funds shall be allocated to projects on the Missouri River blufflands and 50 percent to projects on the Mississippi River blufflands.

571—24.3(161A) Definitions. For the purpose of this rule:

"Blufflands" means a cliff, headland, or hill with a broad, steep face along the channel or floodplain of the Missouri River or Mississippi River and their tributaries.

"Conservation organization" means a nonprofit corporation incorporated in Iowa or an entity organized and operated primarily to enhance and protect natural resources in this state.

"Fund" means the bluffland protection revolving fund established in Iowa Code section 161A.80.

"State-owned lands" means lands in which the state holds the fee title through acquisition and lands in which the state holds title by virtue of its sovereignty, including the beds of the Mississippi River and Missouri River.

571—24.4(161A) Types of acquisitions. Organizations meeting the definition of conservation organization are eligible to receive loans from the fund for the purchase of bluffland properties adjacent to state-owned public lands. Acquisition must be fee simple and title to lands purchased must be free of encumbrances, unless approved by the director on the recommendation of the attorney general. Loan applicants shall submit an abstract of title to lands to be purchased with loans from the fund for examination by the attorney general prior to issuance of any loan.

571—24.5(161A) Application for loans. Conservation organizations shall apply for loans on forms and at times announced by the department as sufficient moneys are available in the fund. Applications shall clearly identify the applicant and give a complete description of the area to be acquired, the expected date of acquisition, and planned long-term use and management of the land to be acquired.

571—24.6(161A) Approval of loan applications. The director shall appoint a committee to review loan applications and the committee shall make appropriate recommendations to the director. If applications exceed funds available, the committee shall evaluate the proposals using criteria established in the department's land acquisition priority plan. The director shall present loans and projects recommended for funding or nonfunding to the natural resource commission for informational purposes.

571—24.7(161A) Interest and other terms of loan agreements. Loans shall be for a maximum term of five years with payment due at the end of the loan term. At the end of the loan term, an appropriate conservation easement approved by the department shall be in effect unless the fee title is conveyed to a public entity in trust to be held for conservation purposes. Simple interest at an annual rate of 4 percent shall accrue on the principal amount of the loan and shall be payable with the principal at the end of the loan term. However, interest shall be waived for the period commencing with the effective date of an approved conservation easement. All interest shall be waived if the fee title is conveyed to a public entity in trust for conservation purposes. The loan agreement and documents establishing security for the loan shall be in a form approved by the department and the attorney general. The applicant shall execute and deliver a first mortgage in favor of the state of Iowa acting through the department of natural resources or provide equivalent security to secure the principal and interest due on the loan. The mortgage shall contain provisions for foreclosure in accordance with Iowa Code chapter 654.

571—24.8(161A) Eligible expenditures with loan funds. Loan funds shall be limited to the following: land purchase, usual and customary incidental costs (not including personnel, staff time, and administrative overhead), land appraisal fees and land survey fees.

571—24.9(161A) Custody and management of land during loan term. Loan recipients must hold title to blufflands acquired throughout the term of the loan. Where practicable, lands purchased with loan funds shall be available for public use under terms and conditions stated in the loan agreement. If the bluffland is sold before the end of the loan term, it must first be offered to a governmental entity. If no governmental entity agrees to purchase the land, it may be sold to a private buyer provided title is first encumbered by a conservation easement granted to the conservation organization or the state of Iowa or its political subdivisions. The easements shall ensure that the natural, scenic or cultural resources of the bluffland are permanently protected. If the bluffland is sold before the end of the loan term, the loan balance shall become due immediately at the time of sale. A loan recipient may enter into agreements, at any time, with governmental entities for the care, management and public use of lands purchased with loan funds.

571—24.10(161A) Loans not to exceed appraised value. Loan recipients may be required to submit to the department an appraisal of land to be acquired with loan funds. The department shall review the appraisal and certify that it is fair and accurate. Loans from the fund shall not exceed the appraised value of the land to be acquired plus approved incidental expenses listed in rule 571—24.8(161A).

These rules are intended to implement Iowa Code section 161A.80.

[Filed emergency 8/20/99 after Notice 6/30/99—published 9/8/99, effective 8/20/99]

CHAPTER 25
CERTIFICATION OF LAND AS NATIVE PRAIRIE OR WILDLIFE HABITAT

[Prior to 12/31/86, Conservation Commission[290] Ch 25]

571—25.1(427) Purpose. The purpose of this rule is to define lands which qualify for tax exemptions as "native prairie" or "wildlife habitat," and to provide procedures whereby owners may have them certified as such.

571—25.2(427) Definitions. Before lands will be certified as either "native prairie" or "wildlife habitat" under Iowa Code section 427.1, they must meet the criteria of the following definitions:

25.2(1) *"Native prairie"* is defined as those lands which have never been cultivated, are unimproved, and are natural or restored grasslands wherein at least 50 percent of the plant canopy is a mixture of grass and forb species which were found originally on Iowa's prairie lands.

25.2(2) *"Wildlife habitat"* is defined as those parcels of land of two acres or less which are devoted exclusively for use as habitat for wildlife and are protected from all other economic uses of any kind.

571—25.3(427) Restrictions. Lands classified as native prairie or wildlife habitat under this rule shall not be used for economic gain of any type including the storage of equipment, machinery, or crops, nor shall there be any buildings, used or unused, on this property.

571—25.4(427) Maintenance. Maintenance activities, including burning, chemical treatment, or selective brush removal, may be performed on native prairies if approved by the county conservation board or by the department of natural resources in areas not served by a county conservation board. Similar activities, as well as seedings and plantings, may be performed on wildlife habitats if approved by the department of natural resources.

571—25.5(427) Certification. In order to have lands certified as native prairie or wildlife habitat, the taxpayer must follow the following procedures:

25.5(1) *Native prairie.* To have land certified as a native prairie, the owner must make application to the county conservation board, or to the department of natural resources in an area not served by a county conservation board, on forms furnished by the department of natural resources. The application shall describe and locate the property to be exempted and have attached to it an aerial photo of that property on which is outlined the boundaries of the property to be exempted.

25.5(2) *Wildlife habitat.* To have land certified as wildlife habitat, the owner must make application to the department of natural resources on forms furnished by the department of natural resources. The application shall describe and locate the property to be exempted.

571—25.6(427) Application for exemption. Application for exemption as a native prairie shall be made annually to the assessing authority on forms provided by the department of revenue and finance, and must be accompanied by an affidavit signed by the applicant that if exemption is granted, the property will not be used for economic gain. The certificate from the county conservation board or the department of natural resources must accompany the application for the first year only. Lands certified as wildlife habitat shall be automatically exempt upon submission of the certification to the appropriate assessor by the department of natural resources.

571—25.7(427) Decertification. Whenever land certified as natural prairie or as wildlife habitat is used for economic gain or otherwise becomes ineligible for tax-exempt status, the appropriate assessor will be notified and the land shall then be taxed at the regular rate for the fiscal year in which the violation occurs, and for subsequent years unless the property in question is recertified.

These rules are intended to implement the provisions of Iowa Code section 427.1.

[Filed 11/5/82, Notice 9/1/82—published 11/24/82, effective 1/1/83]
[Filed without Notice 12/12/86—published 12/31/86, effective 2/4/87]

CHAPTER 29
LOCAL RECREATION INFRASTRUCTURE GRANTS PROGRAM

571—29.1(8,77GA,ch1219) Purpose. The purpose of the local recreation infrastructure grants program is to provide state cost sharing to communities, counties, organizations and associations for the restoration or construction of recreational complexes or facilities.

The Iowa department of natural resources, hereinafter referred to as the department, will administer the local recreation infrastructure grants program.

571—29.2(8,77GA,ch1219) Definitions.

"Commission" means the natural resource commission created in Iowa Code section 455A.5.

"Department" means the department of natural resources created in Iowa Code section 455A.2.

"Director" means the director of the department of natural resources.

"Infrastructure" is defined in Iowa Code section 8.57(5c) as "vertical infrastructure" and includes only land acquisition and construction, major renovation and major repair of buildings, all appurtenant structures, utilities, site developments, and recreational trails.

571—29.3(8,77GA,ch1219) Eligibility requirements. Grants shall be awarded to local political subdivisions of the state and to any other established organization or association which is duly authorized and charged with responsibilities for construction, maintenance and operation of public recreation complexes and facilities. Private entities making application must demonstrate that they are acting on behalf of a public entity.

571—29.4(8,77GA,ch1219) Assistance ceiling and cost share. Grants to any individual project shall not exceed $100,000. Local project sponsors must provide local funding at the rate of two local dollars for each state grant dollar. Up to 50 percent of the local share may be a "soft match" in the form of donated labor, materials or land value. An appraisal must be approved by the department to serve as the basis for establishing the value of real property if used to provide soft match. Prevailing wage rates in the vicinity of the project shall serve as the basis for establishing the value of donated labor or services.

571—29.5(8,77GA,ch1219) Minimum grant amount. Applications for assistance totaling less than $2,500 will not be considered.

571—29.6(8,77GA,ch1219) Grant application submission.

29.6(1) *Form of application.* Grant applications shall be on forms and shall follow guidelines provided by the department. Completed applications shall provide sufficient detail as to clearly describe the scope of the project.

29.6(2) *Application timing.* Grant applications (one original and six copies) must be received in acceptable form by the Iowa Department of Natural Resources, Wallace State Office Building, Des Moines, Iowa 50319-0034, by the close of business on the first business day of September.

29.6(3) *Local funding.* An applicant shall certify that it has committed its share of project costs before the 90 percent up-front grant payment will be made. A "letter of intent" signed by the mayor, chairperson of the board of supervisors, chairperson of the county conservation board, or the CEO or chief financial officer of an agency or organization and submitted with the application showing intent to include funds in finalized budgets by March 15 will be accepted as proof of commitment. Applicants must forward proof of budgeting by April 1 or be removed from the list of approved projects.

29.6(4) *Similar development projects.* A single application for a development project grant may include development on more than one area if that development is of a like type.

571—29.7(8,77GA,ch1219) Project review and selection.

29.7(1) *Review and selection committee.* A review and selection committee, hereinafter referred to as the committee, comprised of six members appointed by the director, two representing cities, two representing counties, one representing other organizations or associations, and one having expertise in the vertical infrastructure industry shall review and evaluate project applications and shall develop funding recommendations to be forwarded to the natural resource commission for approval.

29.7(2) *Conflict of interest.* If a project is submitted to the review and selection committee by a city, county or other eligible sponsor, one of whose members or employees is on the review and selection committee, that individual shall not participate in discussion and shall not vote on that particular project.

29.7(3) *Consideration withheld.* The committee will not consider any application which, on the date of the selection session, is not complete or for which additional pertinent information has been requested and not received.

29.7(4) *Application rating system.* The committee will apply a numerical rating system to each grant application which is considered for fund assistance. The criteria, with a weight factor for each, shall include the following:

a. Public demand or need—weight factor of 2.
b. Quality of site or project—weight factor of 3.
c. Urgency of proposed project—weight factor of 2.
d. Multiple benefits provided, including economic benefits—weight factor of 3.
e. Conformance with local/regional and statewide plans—weight factor of 2.
f. Geographic distribution—weight factor of 1.
g. Up to 5 bonus points may be awarded to projects demonstrating public/private partnerships.

Each criterion shall be given a score from 1 to 10, which is then multiplied by the weight factor.

571—29.8(8,77GA,ch1219) Rating system not used. If total grant requests are less than the allotment available, the rating system will not be applied. All applications will be reviewed by the review and selection committee for eligibility to ensure they conform with the purpose of the program.

571—29.9(8,77GA,ch1219) Applications not approved for funding. Applications which have been considered but not approved for immediate funding or placed on the reserve list shall be returned to the applicants if requested.

571—29.10(8,77GA,ch1219) Commission review. The commission will review all committee recommendations as well as recommendations from the director and staff of the department at the first commission meeting following the review session. The commission may make alterations to the recommended priorities of projects and may reject any application recommended for funding or may approve any application not recommended by the committee or the director and staff. Reasons for change or rejection of any recommended project must be included in the motion to change the order or to reject any project. Commission action will result in three categories of projects: (1) approved for immediate funding; (2) approved for funding but placed on a reserve list to be funded from current funding cycle in the event that higher ranking projects fail to be implemented; and (3) disapproved for funding.

571—29.11(8,77GA,ch1219) Grant amendments. Project amendments may be made upon request by the applicant, subject to the availability of funds, and approval by the director.

571—29.12(8,77GA,ch1219) Timely commencement of projects. Grant recipients are expected to carry out their projects in an expedient manner. The project agreement signed by the sponsor and the director will include anticipated start-up and completion dates. Projects shall be initiated no later than July 1 following their approval by the commission and shall be completed within one year. Extensions must be approved by the director. Failure to initiate projects in a timely manner may be cause for termination of the agreement and cancellation of the grant.

571—29.13(8,77GA,ch1219) Payments. Ninety percent of approved grant amounts may be paid to project sponsors when requested, but not earlier than start-up of the project. Ten percent of the grant total shall be withheld by the department, pending successful completion and final site inspection, or until any irregularities discovered as a result of a final site inspection have been resolved.

571—29.14(8,77GA,ch1219) Record keeping and retention. Grant recipients shall keep adequate records relating to the administration of a project, particularly relating to all incurred expenses. These records shall be available for audit by representatives of the department and the state auditor's office. All records shall be retained in accordance with state laws.

571—29.15(8,77GA,ch1219) Eligible projects. Grants under this program are directed toward "vertical infrastructure" as defined in Iowa Code section 8.57(5c).

571—29.16(8,77GA,ch1219) Project life and recovery of funds. Applicants shall state an expected project life which will become part of the project agreement. Should the funded project cease to be used for public recreation before the stated project life, the director may seek to recover the remaining value of the grant award in the project.

571—29.17(8,77GA,ch1219) Unlawful use of funds. Whenever any property, real or personal, acquired or developed with grants under this program passes from the control of the grantee or is used for purposes other than the approved project purpose, it will be considered an unlawful use of the funds.

571—29.18(8,77GA,ch1219) Remedy. Funds used without authorization, for purposes other than the approved project purpose, or unlawfully must be returned to the department for deposit in the account supporting this program. In the case of diversion of personal property, the grantee shall remit to the department funds in the amount of the original purchase price of the property. The grantee shall have a period of two years after notification by the department in which to correct the unlawful use of funds. The remedy provided in this rule is in addition to others provided by law.

571—29.19(8,77GA,ch1219) Ineligibility. Whenever the director determines that a grantee is in violation of these rules, that grantee shall be ineligible for further assistance until the matter has been resolved to the satisfaction of the commission.

These rules are intended to implement Iowa Code section 8.57(5c) and 1998 Iowa Acts, chapter 1219, section 10.

[Filed emergency 8/21/98 after Notice 6/17/98—published 9/9/98, effective 8/21/98]
[Filed 2/19/99, Notice 12/30/98—published 3/10/99, effective 4/14/99]
[Filed emergency 8/20/99 after Notice 6/30/99—published 9/8/99, effective 8/20/99]

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30.13(2) For development projects, grant recipients shall provide documentation as required by the department to substantiate all project expenditures.

30.13(3) Reimbursements will be made on real estate contract payments using the following procedures:

a. The grant recipient will submit to the department a copy of the real estate contract which must stipulate that the grant recipient will get physical control of the property on or before the date the first contract payment is made.

b. The grant recipient will submit to the department a copy of any approval which it is required to obtain from any governing body to enter into a real estate contract.

c. The grant recipient will submit to the department an up-to-date title opinion from its official legal officer indicating that the landowner has and can convey clear title to the grant recipient.

d. The grant recipient will submit a project billing with photocopy of the canceled warrant when claiming reimbursement.

e. When final payment has been made and title obtained, the grant recipient will submit to the department a copy of the deed and a certificate of title from its official legal officer. Only one reimbursement request may be submitted if the total project cost is $10,000 or less. If more than $10,000, no more than two reimbursement requests may he submitted.

A final reimbursement request shall be submitted within 90 days following the completion date indicated on the cooperative agreement. Failure to do so may be cause for termination of the project with no further reimbursement to the grant recipient.

Ten percent of the total reimbursement due any grant recipient for a development project will be withheld pending a final site inspection or until any irregularities discovered as a result of a final inspection have been resolved. Final site inspections will be conducted by assigned department staff within 30 days of notification by project sponsor that a project is completed.

571—30.14(77GA,SF2381) Implementation of pilot program for state and local cooperative lake rehabilitation. This rule provides for implementing a pilot program of state and local cooperative lake rehabilitation, funded with a special appropriation from the general assembly by 1998 Iowa Acts, Senate File 2381, and applies only to that special appropriation or subsequent appropriations made for the same purpose.

30.14(1) *Program goal.* The goal of this program shall be to improve or protect the quality of public inland lakes through state and local cooperative efforts that include compilation of scientific data on lakes and their watersheds of this state and assessment of experimental and innovative techniques of lake rehabilitation and protection.

30.14(2) *Definitions.* As used in this rule, unless the context otherwise requires:

"Lake rehabilitation" means the improvement or restoration of lakes and watersheds from an undesirable or degraded condition to a former, less deteriorated condition or to a condition of greater usefulness.

"Local project sponsor" means recreational lake districts established pursuant to Iowa Code chapter 357E, local units of government, incorporated lake protection or improvement associations or other associations of persons directly affected by the deteriorated condition of lakes and willing to assist financially in alleviating those deteriorated conditions.

"Plan" means a plan for lake and watershed restoration, rehabilitation or enhancement that prescribes specific measures, judged feasible and cost-effective, and endorsed by the department.

"Public lake" or *"lake"* means a natural water body or impoundment within the boundaries of the state that is accessible to the public by way of contiguous public lands or easements giving public access and does not include federal flood control impoundments.

"Study" means a lake diagnostic feasibility study of a methodology and design approved by the department.

30.14(3) *Availability of funding and application procedures.* Funding appropriated by the legislature for this program shall be available for grants to local project sponsors. Application for funding shall be made in a format and on a date announced by the department.

30.14(4) *Project review, selection and approval.* Applications for funding shall be reviewed by the committee established pursuant to rule 30.7(452A). The committee shall make recommendations to the director for project funding. Projects in which the state grant exceeds $25,000 shall be presented to the natural resource commission for approval.

30.14(5) *Cost-share provisions.* Local project sponsors shall match each state dollar provided from this program with one dollar of local project money raised. Federal funds, other nonstate public funds, in-kind contributions and private funds raised by local project sponsors may be combined to meet the local match requirement, subject to approval of the department.

30.14(6) *Eligible projects.* Projects eligible for funding include studies of public lakes that include gathering data on the lake, its drainage basin, sources of pollution or nutrients, or other information necessary to determine the causes of degradation and remedial courses of action to prevent continued degradation or to determine potential causes of degradation and preventive courses of action. Preparation of a lake protection and rehabilitation plan developed under the direction of the department, lake dredging, erosion control and land acquisition related to dredging are also eligible for funding.

30.14(7) *Retroactivity.* Expenses and activities related to diagnostic feasibility studies occurring prior to the effective date of these rules may be eligible for funding if they are part of a project approved for funding and if the expenses and activities were necessary to record data or monitor lake conditions that are affected by seasonal changes or other natural cycles.

30.14(8) *Project agreements and disbursement of funds.* Upon approval of grant projects, the department and local project sponsor shall enter a project agreement on a form prescribed by the department. The duration, amount of funding and timing of disbursement of grant funds shall be stipulated in the agreement.

These rules are intended to implement Iowa Code section 452A.79.

[Filed 2/7/86, Notice 1/1/86—published 2/26/86, effective 4/21/86]
[Filed without Notice 12/12/86—published 12/31/86, effective 2/4/87]
[Filed 10/16/87, Notice 8/26/87—published 11/4/87, effective 2/3/88]
[Filed 7/19/91, Notice 5/29/91—published 8/7/91, effective 9/11/91]
[Filed 8/9/96, Notice 6/5/96—published 8/28/96, effective 10/2/96]
[Filed emergency 8/21/98 after Notice 7/1/98—published 9/9/98, effective 8/24/98]
[Filed emergency 8/20/99 after Notice 6/30/99—published 9/8/99, effective 8/20/99]

571—40.46(462A) Zoning of Carter Lake, Pottawattamie County.

40.46(1) All vessels operated in a designated zone known as Shoal Pointe Canal shall be operated at a no-wake speed.

40.46(2) The city of Carter Lake shall designate and maintain the no-wake zone with marker buoys approved by the natural resource commission.

571—40.47(462A) Zoning of the Mississippi River, McGregor, Clayton County.

40.47(1) All vessels, except commercial barge traffic, shall be operated at a no-wake speed within the area of river mile markers 634 and 633.4 and designated by buoys or other approved uniform waterway markers.

40.47(2) The city of McGregor will designate the no-wake zone with buoys approved by the natural resource commission.

These rules are intended to implement the provisions of Iowa Code sections 462A.17, 462A.26, and 462A.31.

[Filed 12/19/61; amended 7/23/62, 1/14/64, 3/24/64, 9/14/65, 1/11/66, 9/13/66, 12/13/67, 7/16/68, 8/14/68, 3/15/73, amended 5/29/75]
[Filed 9/23/76, Notice 6/28/76—published 10/20/76, effective 11/24/76]
[Filed 7/7/77, Notice 3/23/77—published 7/27/77, effective 8/31/77]
[Filed emergency 8/5/77—published 8/24/77, effective 8/5/77]
[Filed 1/9/78, Notice 8/24/77—published 1/25/78, effective 3/1/78]
[Filed emergency 5/2/79 after Notice 3/21/79—published 5/30/79, effective 5/2/79]
[Filed 7/6/79, Notice 5/30/79—published 7/25/79, effective 8/29/79]
[Filed 7/13/82, Notice 5/26/82—published 8/4/82, effective 9/8/82]
[Filed 10/7/82, Notice 6/23/82—published 10/27/82, effective 12/1/82]
[Filed 10/7/82, Notice 9/1/82—published 10/27/82, effective 12/1/82]
[Filed 10/6/83, Notice of 8/3/83—published 10/26/83, effective 12/1/83]
[Filed 3/9/84, Notice 12/21/83—published 3/28/84, effective 5/3/84]
[Filed 4/5/85, Notice 1/30/85—published 4/24/85, effective 5/29/85]
[Filed 9/5/85, Notice 7/3/85—published 9/25/85, effective 10/30/85]
[Filed 4/4/86, Notice 2/26/86—published 4/23/86, effective 5/28/86]
[Filed 10/17/86, Notice 7/30/86—published 11/5/86, effective 12/10/86]
[Filed without Notice 12/12/86—published 12/31/86, effective 2/4/87]
[Filed 8/5/88, Notice 6/1/88—published 8/24/88, effective 9/28/88]
[Filed 8/17/89, Notice 5/3/89—published 9/6/89, effective 10/11/89]
[Filed 2/2/90, Notice 11/29/89—published 2/21/90, effective 3/28/90]
[Filed 1/18/91, Notice 10/31/90—published 2/6/91, effective 3/28/91]
[Filed 2/15/91, Notice 11/28/90—published 3/6/91, effective 4/10/91]
[Filed 1/17/92, Notice 10/30/91—published 2/5/92, effective 3/11/92]
[Filed 6/5/92, Notice 4/1/92—published 6/24/92, effective 7/29/92]
[Filed 11/6/92, Notice 9/30/92—published 11/25/92, effective 12/30/92]
[Filed 8/13/93, Notice 5/26/93—published 9/1/93, effective 10/6/93]

[Filed 2/11/94, Notice 8/4/93—published 3/2/94, effective 4/6/94]
[Filed 5/15/95, Notice 3/1/95—published 6/7/95, effective 7/12/95]
[Filed emergency 8/11/95 after Notice 6/7/95—published 8/30/95, effective 8/11/95]
[Filed 11/16/95, Notice 9/27/95—published 12/6/95, effective 1/10/96]
[Filed without Notice 2/9/96—published 2/28/96, effective 4/3/96]
[Filed 5/15/96, Notice 2/28/96—published 6/5/96, effective 7/10/96]
[Filed 10/18/96, Notice 8/28/96—published 11/6/96, effective 12/11/96]
[Filed 12/12/97, Notice 10/8/97—published 12/31/97, effective 2/4/98]
[Filed 11/13/98, Notice 9/9/98—published 12/2/98, effective 1/6/99]
[Filed 3/19/99, Notice 12/30/98—published 4/7/99, effective 5/12/99]
[Filed 8/20/99, Notice 6/30/99—published 9/8/99, effective 10/13/99]

Palisades-Kepler State Park, Linn County	100
Pine Lake State Park, Hardin County	60
Pleasant Creek Recreation Area, Linn County**	50
Stone State Park, Woodbury County	100
Walnut Woods State Park, Polk County	110
Wapsipinicon State Park, Jones County	
Heated year-round shelter	40
Unheated seasonal shelter	30

b. Open shelter reservation $20 plus applicable tax.

c. Beach house open shelter reservation $40 plus applicable tax.

Lake Ahquabi State Park, Warren County
Lake Wapello State Park, Davis County
Pine Lake State Park, Hardin County
Springbrook Recreation Area, Guthrie County

61.3(4) *Group camp rental.* This fee does not include tax.

a. Dolliver State Park, Webster County and Springbrook State Park, Guthrie County. Rental includes use of restroom/shower facility at Dolliver.

(1) Organized youth groups—$1.25 per day per person with a minimum charge per day of $55.

(2) Other groups—$15 per day per cabin plus $25 per day for the kitchen and dining facility.

(3) Springbrook dining hall—day use only $40.

b. Lake Keomah State Park, Mahaska County.

(1) Organized youth groups—$25 per day for the dining/restroom facility plus the applicable camping fee.

(2) Other groups—$25 per day for the dining/restroom facility plus the applicable camping fee.

61.3(5) *Miscellaneous fees.* This fee does not include tax.

	Maximum Fee
a. Vessel storage space (wet or dry)	
(1) Pontoon boats—eight months or less	$150
eight months or less (new docks)	$200
year-round	$200
year-round (new docks)	$250
(2) Other boats—eight months or less	$125
eight months or less (new docks)	$150
year-round	$150
year-round (new docks)	$200

b. Rescinded IAB 3/11/98, effective 4/15/98.

61.3(6) *Reservation and damage deposits for rental facilities.* Rescinded IAB 9/9/98, effective 10/14/98.

61.3(7) *Varying fees.* Fees charged for like services in state-owned areas under management by political subdivisions may vary from those established by this chapter.

This rule is intended to implement Iowa Code sections 422.43 and 461A.47.

**Do not contain kitchen facilities

571—61.4(461A) Procedures for registration and reservations.

61.4(1) *Camper registration.*

a. In most instances, registration of campers will be handled by a self-registration process. Registration forms will be provided by the department of natural resources.

Campers shall, within one-half hour of arrival at the campground, complete the registration form, place the appropriate fee or number of camping tickets in the envelope and place the envelope in the depository provided by the department of natural resources. One copy must then be placed in the holder provided at the campsite.

b. Campsites are considered occupied and registration for a campsite shall be considered complete when the requirements of 61.4(1)*"a,"* second paragraph, have been met; however, it shall be the responsibility of the registered camper to ensure that the site is visibly occupied, thereby secure from others registering into the site if the site appears not to be occupied.

c. Each camping ticket as provided in 61.3(1)*"i"* shall cover the cost of one night's camping in a modern area on a site where electricity is furnished. Persons camping on sites which also have sewer and water hookups or cable television hookups available must pay the additional charges for these services in addition to utilizing a camping ticket. Use of a camping ticket in an area or on a site which would require a lesser fee than an electrical site in a modern area will not entitle the user to a refund or credit of any nature.

d. Campsite registration must be in the name of a person 18 years of age or older who will occupy the camping unit on that site for the full term of the registration.

61.4(2) *Lodge, cabin, open shelter, group camp and designated organized youth camp site reservations and rental.*

a. Except for the year-round use cabins, reservations for the above-mentioned facilities are to be made only for the current calendar year. No reservations will be accepted prior to November 1 of each year for more than the first full week of January in the next subsequent year for the year-round use cabins. Procedures for winter season rentals of the heated cabins at Backbone State Park, Pine Lake State Park, and Wilson Island State Recreation Area shall be governed by paragraphs *"a," "b," "c," "d," "e," "k," "l," "m," "n,"* and *"o"* of this subrule and by the provisions of 61.4(3).

b. Telephone and walk-in reservations will not be accepted until the first business day following November 1 of each year for the heated cabins and the first business day after January 1 of each year for all other cabins, group camps, open and enclosed shelters, designated organized youth camp sites, or lodges.

c. Mail-in reservations for the subsequent calendar year received prior to January 1, or November 1 as applicable, will be placed in a box and processed through a random drawing system on the first business day following January 1 or November 1.

d. Walk-in and telephone requests on the first business day following January 1 or November 1 will be handled on a first-come, first-served basis after all mail-in requests have been handled. Walk-in and telephone requests after the first business day following January 1 or November 1 will be handled on a first-come, first-served basis.

e. All mail-in requests will be handled on a random drawing basis daily throughout the calendar year.

f. Except as provided in 61.4(2)*"m"* and *"n"* cabin and group camp reservations must be for a minimum of one week (Saturday p.m. to Saturday a.m.). Reservations for more than a two-week stay will not be accepted. These facilities, if not reserved, may be rented for a minimum of two nights on a walk-in, first-come, first-served basis. No walk-in rentals will be permitted after 6 p.m. of the first night of the rental period.

g. Persons renting cabins or group camp facilities must check in at or after 4 p.m. on Saturday. Check-out time is 11 a.m. or earlier on Saturday.

61.6(3) *Lake Darling Recreation Area, Washington County.* Except for use of firearms for the taking of deer as provided in 571—Chapter 105 and as provided in 61.5(8)*"b"* and *"c,"* all conditions and limitations on use, hours, and prohibited acts set forth in Iowa Code chapter 461A and elsewhere in this chapter shall apply to Lake Darling Recreation Area. During the dates of deer hunting provided for in 571—paragraph 105.4(1)*"c,"* only persons engaged in deer hunting shall use the area.

61.6(4) *Brushy Creek Recreation Area, Webster County.*

a. When the campsites in the designated camping area are filled, the day-use area located south of the designated campground may be used as an overflow camping area. The maximum number of camping units permitted in this overflow is 30.

b. In the designated campground, the maximum number of equine animals to be tied to the new, larger hitching rails is six and the maximum number for the older, smaller rails is four. Persons with a number of equine animals in excess of the number permitted on the hitching rail at their campsite shall be allowed to stable their additional animals in a trailer or at a nearby, unrented campsite.

c. In the designated campground, equine animals may be tied to trailers for short periods of time to allow grooming or saddling; however, the tying of equine animals to the exterior of trailers for extended periods of time or stabling is not permitted.

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

61.6(6) *Springbrook Recreation Area, Guthrie County.* Except for use of firearms for the taking of deer as provided in 571—Chapter 105 and as provided in 61.5(8)*"b"* and *"c,"* all conditions and limitations on use, hours, and prohibited acts set forth in Iowa Code chapter 461A and elsewhere in this chapter apply to Springbrook Recreation Area. During the dates of deer hunting provided for in 571—paragraph 105.4(1)*"c,"* only persons engaged in deer hunting shall use the area.

61.6(7) *Viking Lake Recreation Area, Montgomery County.* Except for use of firearms for the taking of deer as provided in 571—Chapter 105 and as provided in 61.5(8)*"b"* and *"c,"* all conditions and limitations on use, hours, and prohibited acts set forth in Iowa Code chapter 461A and elsewhere in this chapter shall apply to Viking Lake Recreation Area. During the dates of deer hunting provided for in 571—subrule 105.4(7), only persons engaged in deer hunting shall use the area.

61.6(8) *Hattie Elston Access and Claire Wilson Park, Dickinson County.*

a. Except as provided in 61.22(461A), these areas are closed to public access from 10:30 p.m. to 4 a.m.

b. Parking of vehicles of any type on these areas is prohibited unless the vehicle operator and occupants are actively using the area for fishing or other recreational purposes.

c. Overnight camping is prohibited.

61.6(9) *Volga River State Recreation Area, Fayette County.* Access in and out of designated campgrounds shall be permitted from 4 a.m. to 10:30 p.m. During the hours of 10:31 p.m. to 3:59 a.m. only registered campers are permitted in the campground.

61.6(10) *Wapsipinicon State Park, Jones County.* The recreation area portion of the park is closed to the public from 10:30 p.m. to 4 a.m.

61.6(11) *Lake Manawa State Park, Pottawattamie County.* Except for the following campground length of stay limitations, campsite use restrictions as stated in 61.5(10) shall apply to Lake Manawa.

Registration can be for more than 1 day at a time but not for more than 14 consecutive days. No person may camp at the Lake Manawa campground for more than 14 days in any 30-day period.

[illegible]

571—61.7(461A) Mines of Spain hunting, trapping and firearms use.

61.7(1) The following described portions of the Mines of Spain Recreation Area are established and will be posted as wildlife refuges:

a. That portion within the city limits of the city of Dubuque located west of U.S. Highway 61 and north of Mar Jo Hills Road.

b. The tract leased by the department of natural resources from the city of Dubuque upon which the E.B. Lyons Interpretive Center is located.

c. That portion located south of the north line of Section 8, Township 88 North, Range 3 East of the 5th P.M. between the west property boundary and the east line of said Section 8.

d. That portion located north of Catfish Creek, east of the Mines of Spain Road and south of the railroad tracks. This portion contains the Julien Dubuque Monument.

61.7(2) Archery hunting for all legal species and trapping are permitted in compliance with all open season, license and possession limits on all of the Mines of Spain Recreation Area except those designated as refuge by subrule 61.7(1).

61.7(3) Firearm use is prohibited in the following described areas:

a. The areas described in subrule 61.7(1).

b. The area north and west of Catfish Creek and west of Granger Creek.

61.7(4) Deer hunting with guns and muzzleloading rifles and hunting for all other species is permitted only during the regular gun season and with shotguns only as established by 571 IAC 106. Areas not described in 61.7(3) are open for hunting. Hunting shall be in compliance with all other regulations.

61.7(5) Turkey hunting with shotguns is allowed only in compliance with the following regulations:

a. Only during the first shotgun hunting season established in 571 IAC 98 which is typically four days in mid-April.

b. Only that area of the Mines of Spain Recreation Area located east of the newly established roadway and south of the Horseshoe Bluff Quarry.

61.7(6) The use or possession of handguns and all types of rifles is prohibited on the entire Mines of Spain Recreation Area except as provided in 61.7(4). Target and practice shooting with any type of firearm is prohibited.

61.7(7) All forms of hunting, trapping and firearms use not specifically permitted by 571—61.7(461A) are prohibited on the Mines of Spain Recreation Area.

571—61.8 to **61.20** Reserved.

571—61.21(461A) After-hours fishing, exception to closing time.

61.21(1) *Conditions.* Persons shall be allowed access to the areas designated in 571—61.22(461A) between the hours of 10:30 p.m. and 4 a.m. under the following conditions:

a. The person is to be actively engaged in fishing.

b. The person shall behave in a quiet, courteous manner so as to not disturb other users of the park such as campers.

c. Access to the fishing site shall be by the shortest and most direct trail or access facility from the parking area.

d. Vehicle parking shall be in the lots designated by signs posted in the area.

e. Activities other than fishing are allowed with permission of the director or an employee designated by the director.

61.21(2) Reserved.

571—61.22(461A) Designated areas for after-hours fishing. Areas which are open from 10:30 p.m. to 4 a.m. are shown on maps available from the department of natural resources. The areas are described as follows:

61.22(1) *Lower Pine Lake, Hardin County.* West shoreline along Hardin County Road S56 from the beach southerly to the boat ramp access.

61.22(2) *Upper Pine Lake, Hardin County.* Southwest shoreline extending from the boat launch ramp to the dam.

61.22(3) *Pikes Point State Park, Dickinson County.* The shoreline areas of Pikes Point State Park on the east side of West Okoboji Lake.

61.22(4) *Black Hawk Lake, Sac County.* The area of state park between the road and the lake running from the marina at Drillings Point on the northeast end of the lake approximately three-fourths of a mile in a southwesterly direction to a point where the park boundary decreases to include only the roadway.

61.22(5) *North Twin Lake State Park, Calhoun County.* The shoreline of the large day use area containing the swimming beach on the east shore of the lake.

61.22(6) *Lake Geode State Park, Des Moines County portion.* The area of the dam embankment between the county road and the lake as shown on the map.

61.22(7) *Lake Macbride State Park, Johnson County.* The shoreline of the south arm of the lake adjacent to the county road commencing at the "T" intersection of the roads at the north end of the north-south causeway proceeding across the causeway thence southeasterly along a foot trail to the east-west causeway, across the causeway to the parking area on the east end of that causeway.

61.22(8) *Union Grove State Park, Tama County.*

a. The dam embankment from the spillway to a line parallel with the west end of the parking lot adjacent to the dam.

b. The area of state park between the county road and the lake along the west shoreline from the causeway on the north end of the lake to the southerly end of the arm of the lake that extends southwesterly of the main water body.

61.22(9) *Bob White State Park, Wayne County.* Both sides of the east-west causeway embankment on County Road J46 from the parking lot on the west end of the causeway to a point approximately 300 feet east of the causeway bridge.

61.22(10) *Lake Keomah State Park, Mahaska County.*

a. The embankment of the dam between the crest of the dam and the lake.

b. The shoreline between the road and the lake from the south boat launch area west and north to the junction with the road leading to the group camp shelter.

61.22(11) *Prairie Rose State Park, Shelby County.* The west side of the embankment of the causeway across the southeast arm of the lake including the shoreline west of the parking area to its junction with the road leading toward the park ranger residence.

61.22(12) *Green Valley Lake, Union County.*

a. The embankment of the road from the small parking area east of the park ranger's residence east to the "T" intersection and south to the westerly end of a point of land jutting into the lake directly south of the parking lot mentioned above.

b. From the east side of the spillway easterly across the dam to the west edge of the parking lot.

61.22(13) *Rock Creek Lake, Jasper County.* Both sides of the County Road F27 causeway across the main north portion of the lake.

61.22(14) *Honey Creek State Park, Appanoose County.* The boat ramp area located north of the park office, access to which is the first road to the left upon entering the park.

61.22(15) *Lake Manawa State Park, Pottawattamie County.* The west shoreline including both sides of the main park road, commencing at the north park entrance and continuing south 1.5 miles to the parking lot immediately north of the picnic area known as "Boy Scout Island."

61.22(16) *Viking Lake State Recreation Area, Montgomery County.* The embankment of the dam from the parking area located southeast of the dam area northwesterly across the dam structure to its intersection with the natural shoreline of the lake.

61.22(17) *Hattie Elston Access, Dickinson County.* The entire area including the parking lot shoreline and boat ramp facilities.

61.22(18) *Claire Wilson Park, Dickinson County.* The entire area including the parking lot, shoreline and fishing trestle facility.

61.22(19) *Mini-Wakan State Park, Dickinson County.* The entire area.

61.22(20) *Elinor Bedell State Park, Dickinson County.* The entire length of the shoreline within the state park boundaries.

571—61.23(461A) Vessels prohibited. Rule 571—61.22(461A) does not permit the use of vessels on the artificial lakes within state parks after the 10:30 p.m. park closing time. All fishing is to be done from the bank or shoreline of the permitted area.

571—61.24(461A) Campground fishing. Rule 571—61.22(461A) of these rules is not intended to prohibit fishing by registered campers from the shoreline within the camping area.

571—61.25(461A) Severability. Should any rule, subrule, paragraph, phrase, sentence or clause of this chapter be declared invalid or unconstitutional for any reason, the remainder of this chapter shall not be affected thereby.

571—61.26(461A) Restore the outdoors program. Funding provided through the appropriation made by 1997 Iowa Acts, chapter 215, and subsequent Acts, shall be used to renovate, replace or construct new vertical infrastructure and associated appurtenances in state parks and other public facilities managed by the department of natural resources.

The intended projects will be included in the department's annual five-year capital plan in priority order by year and approved by the natural resource commission for inclusion in its capital budget request.

The funds appropriated by 1997 Iowa Acts, chapter 215, section 37, and subsequent Acts, will be used to renovate, replace or construct new vertical infrastructure through construction contracts, agreements with local government entities responsible for managing state parks and other public facilities, and agreements with the department of corrections to use inmate labor where possible. Funds shall also be used to support site survey, design and construction contract management through consulting engineering and architectural firms and direct survey, design and construction management costs incurred by department engineering and architectural staff for restore the outdoors projects. Funds shall not be used to support general department oversight of the restore the outdoors program such as accounting, general administration or long-range planning.

These rules are intended to implement Iowa Code sections 422.43, 455A.4, 461A.3, 461A.35, 461A.38, 461A.43, 461A.45 to 461A.51, 461A.57, and 723.4 and Iowa Code Supplement section 461A.3A.

[Filed 9/14/65]
[Filed 5/5/78, Notice 3/8/78—published 5/31/78, effective 7/6/78]
[Filed 7/13/82, Notice 4/28/82—published 8/4/82, effective 9/8/82]
[Filed 4/7/83, Notice 2/2/83—published 4/27/83, effective 6/1/83]
[Filed 11/4/83, Notice 9/28/83—published 11/23/83, effective 12/28/83]
[Filed 2/6/84, Notice 12/21/83—published 2/29/84, effective 4/5/84]
[Filed 4/5/85, Notice 1/30/85◊—published 4/24/85, effective 5/30/85]
[Filed 5/8/85, Notice 1/30/85—published 6/5/85, effective 7/10/85]
[Filed emergency 5/31/85—published 6/19/85, effective 7/1/85]
[Filed emergency 6/11/86—published 7/2/86, effective 6/13/86]
[Filed 10/17/86, Notice 7/2/86—published 11/5/86, effective 12/10/86]
[Filed without Notice 12/12/86—published 12/31/86, effective 2/4/87]
[Filed 3/20/87, Notice 1/28/87—published 4/8/87, effective 5/13/87]
[Filed 10/16/87, Notice 8/26/87—published 11/4/87, effective 2/3/88]
[Filed emergency 7/7/89—published 7/26/89, effective 7/7/89]
[Filed 3/15/91, Notices 10/3/90, 12/26/90—published 4/3/91, effective 5/8/91]
[Filed 6/7/91, Notice 4/3/91—published 6/26/91, effective 7/31/91]*
[Filed emergency 10/4/91 after Notice 8/7/91—published 10/30/91, effective 10/4/91]
[Filed 3/13/92, Notice 12/25/91—published 4/1/92, effective 5/6/92]
[Filed 5/8/92, Notice 4/1/92—published 5/27/92, effective 7/1/92]**
[Filed emergency 8/7/92—published 9/2/92, effective 8/7/92]
[Filed 12/4/92, Notice 9/30/92—published 12/23/92, effective 1/27/93]
[Filed 8/13/93, Notice 6/23/93—published 9/1/93, effective 1/1/94]***
[Filed 8/12/94, Notice 6/8/94—published 8/31/94, effective 10/5/94]
[Filed 9/9/94, Notice 7/6/94—published 9/28/94, effective 11/2/94]
[Filed emergency 10/27/94—published 11/23/94, effective 10/27/94]
[Filed emergency 2/9/95—published 3/1/95, effective 2/10/95]
[Filed 5/15/95, Notice 3/1/95—published 6/7/95, effective 7/12/95]
[Filed 10/20/95, Notice 8/30/95—published 11/8/95, effective 12/13/95]
[Filed 8/9/96, Notice 6/5/96—published 8/28/96, effective 10/2/96]
[Filed 8/9/96, Notice 7/3/96—published 8/28/96, effective 10/2/96]
[Filed without Notice 10/18/96—published 11/6/96, effective 1/1/97]
[Filed 2/21/97, Notice 1/1/97—published 3/12/97, effective 4/16/97]
[Filed 8/22/97, Notice 6/4/97—published 9/10/97, effective 10/15/97]
[Filed 2/20/98, Notice 12/31/97—published 3/11/98, effective 4/15/98]
[Filed emergency 5/29/98—published 6/17/98, effective 5/29/98]
[Filed 8/21/98, Notice 6/17/98—published 9/9/98, effective 10/14/98]
[Filed emergency 12/11/98 after Notice 11/4/98—published 12/30/98, effective 1/1/99]
[Filed 8/20/99, Notice 6/30/99—published 9/8/99, effective 10/13/99]

*Effective date of subrule 61.6(2) and rule 61.7(7/31/91) delayed 70 days by the Administrative Rules Review Committee at its meeting held 7/12/91.
**Amendments to 61.4(2)"*f*" and 61.3(5)"*a*" effective January 1, 1993.
***Amendments to 61.4(2)"*a*" to "*d*" effective October 31, 1993.
◊Two ARCs

TITLE VII
FORESTRY

CHAPTER 71
NURSERY STOCK SALE TO THE PUBLIC

[Prior to 12/31/86, Conservation Commission[290] Ch 48]

571—71.1(456A,461A) Purpose. The department of natural resources shall sell nursery stock to private landowners and public agencies to encourage the establishment of wildlife habitat and erosion control plantings and to promote forestry.

571—71.2(456A,461A) Procedures.

71.2(1) *Description of nursery stock to be sold.*

a. Plants sold for use on private land shall not exceed four years of age.

b. Plants sold for use on private land shall be barerooted.

c. Only those species in accepted use for wildlife habitat, erosion control and forestry plantings shall be sold for use on private land.

d. Seeds and cuttings of those species in paragraph *"c"* may be sold for use on private land.

71.2(2) *Order limitations.*

a. The minimum acceptable order shall be 500 plants in total with the minimum number of 100 plants of one species.

(1) To complete the previous year's planting, a purchaser may order less than 500 plants with a minimum of 100 plants of one species.

(2) Special purpose packets shall contain the number and species of plants as determined annually by the state forester but not to exceed 400 plants.

b. If a shortage occurs, substitution of suitable species may be made at the discretion of the state forester.

c. Nursery stock shall be sold only for planting within the state of Iowa.

71.2(3) *Customer obligation.*

a. Nursery stock planted on private land shall be for the purpose of wildlife habitat establishment, the control of soil erosion or to establish forest cover.

b. Purchasers of nursery stock for planting on private land shall, as a part of the order, be required to certify the plants will be used for wildlife habitat, erosion control or forestation purposes and will not be used to establish a new farmstead windbreak, shade trees or ornamental plantings.

c. All purchasers of stock shall, as a part of the plant order, be required to certify as to the county in which the nursery stock will be planted.

d. All purchasers shall be required as a part of the plant order, to certify that the plants purchased will not be sold with roots attached.

571—71.3(456A,461A) Nursery stock prices.

71.3(1) Prices for hardwoods and shrubs shall be as follows:

a. Hardwoods and shrubs, 17" and larger—$40 per hundred plants.

b. Hardwoods and shrubs, 10" to 16"—$35 per hundred plants.

71.3(2) Prices for conifers shall be $20 per hundred plants.

71.3(3) Prices for wildlife packets shall be $65 each.

71.3(4) Prices for songbird packets shall be $20 each.

71.3(5) Prices for walnut seed shall be $3 per pound.

These rules are intended to implement Iowa Code sections 456A.20 and 461A.2 and 1989 Iowa Acts, chapter 311, section 16.

[Filed 6/6/79, Notice 4/4/79—published 6/27/79, effective 8/1/79]
[Filed 1/5/84, Notice 11/23/83—published 2/1/84, effective 3/8/84]
[Filed without Notice 12/12/86—published 12/31/86, effective 2/4/87]
[Filed 8/17/89, Notice 6/28/89—published 9/6/89, effective 10/11/89]
[Filed 5/10/91, Notice 3/6/91—published 5/29/91, effective 7/3/91]
[Filed 5/7/93, Notice 3/31/93—published 5/26/93, effective 6/30/93]
[Filed emergency 8/23/96 after Notice 7/17/96—published 9/11/96, effective 8/23/96]
[Filed emergency 5/14/99—published 6/2/99, effective 5/14/99]
[Filed 8/20/99, Notice 6/2/99—published 9/8/99, effective 10/13/99]

CHAPTER 91
WATERFOWL AND COOT HUNTING SEASONS
[Prior to 12/31/86, Conservation Commission[290] Ch 107]

571—91.1(481A) Ducks (split seasons). Open season for hunting ducks shall be September 18 to September 22, 1999; October 16 to December 9, 1999, in that portion of the state lying north of a line beginning on the Nebraska-Iowa border at State Highway 175, southeast to State Highway 37, east to U.S. Highway 59, south to I-80 and along I-80 east to the Iowa-Illinois border; and September 18 to September 22, 1999; October 16 to December 9, 1999, in that portion of the state lying south of a line beginning on the Nebraska-Iowa border at State Highway 175, southeast to State Highway 37, east to U.S. Highway 59, south to I-80 and along I-80 east to the Iowa-Illinois border. Shooting hours are one-half hour before sunrise to sunset each day.

91.1(1) *Bag limit.* The daily bag limit of ducks is 6, and may include no more than 4 mallards (no more than 2 of which may be females), 1 black duck, 2 wood ducks, 1 pintail, 3 scaup, 3 mottled ducks, 2 redhead and 1 canvasback. The daily bag limit of mergansers is 5, only 1 of which may be a hooded merganser.

91.1(2) *Possession limit.* The possession limit is twice the daily bag limit.

571—91.2(481A) Coots (split season). Same as duck season dates and shooting hours.

91.2(1) *Bag and possession limits.* Daily bag limit is 15 and possession limit is 30.

91.2(2) Reserved.

571—91.3(481A) Geese. The north goose hunting zone is that part of Iowa north of a line beginning on the Nebraska-Iowa border at State Highway 175, east to State Highway 37, southeast to U.S. Highway 59, south to I-80 and along I-80 to the Iowa-Illinois border. The south goose hunting zone is the remainder of the state. The open season for hunting Canada geese only is September 11 and 12, 1999, west of State Highway 63 in the north goose hunting zone only, except on the Big Marsh Wildlife Area where the season will remain closed. The open season for hunting Canada geese, white-fronted geese and brant is October 2 to December 10, 1999, in the north goose hunting zone and October 2 to October 10 and October 16 to December 15, 1999, in the south goose hunting zone. The open season for hunting snow geese is October 2 to December 27, 1999, statewide, and will reopen statewide from February 19 to March 10, 2000. Shooting hours are one-half hour before sunrise to sunset each day.

91.3(1) *Bag limit.* Daily bag limit is 2 Canada geese, 2 white-fronted geese, 2 brant and 20 snow geese.

91.3(2) *Possession limit.* Possession limit is twice the daily bag limit and no possession limit on snow geese.

571—91.4(481A) Closed areas. Waterfowl and coots may be hunted statewide except in specific areas.

91.4(1) *Waterfowl and coots.* There shall be no open season for ducks, coots and geese on the east and west county road running through sections 21 and 22, township 70 north, range 43 west, Fremont County; three miles of U.S. Highway 30, located on the south section lines of sections 14, 15, and 16, township 78 north, range 45 west, Harrison County; on the county roads immediately adjacent to, or through, Union Slough National Wildlife Refuge, Kossuth County; Louisa County Road X61 from the E-W centerline of section 29, township 74 north, range 2 west, on the south, to the point where it crosses Michael Creek in section 6, township 74 north, range 2 west on the north, and also all roads through or adjacent to sections 7, 18, and 19 of this same township and roads through or adjacent to sections 12 and 13, township 74 north, range 3 west; the levee protecting the Green Island Wildlife Area from the Mississippi River in Jackson County wherever the levee is on property owned by the United States or the state of Iowa; certain dikes at Otter Creek Marsh, Tama County, where posted as such; and the NE¼, section 23 and the N½, section 24, all in township 70 north, range 19 west, Appanoose County, including county roads immediately adjacent thereto; and all privately owned lands in the S½, section 30, township 71 north, range 20 west, Lucas County, including the county road immediately adjacent thereto; Cerro Gordo County Road S14 and its right-of-way, between its junction with U.S. Highway 18 and County Road B-35, and portions of Clear Lake and Ventura Marsh; where posted as such in Cerro Gordo County. That portion of Summit Lake located south of State Highway 25 in the west ½ of the NW¼ of section 2 (22 acres), and the west ½ of section 3 (100 acres), T72N, R31W in Union County.

91.4(2) *Canada geese.* There shall be no open season on Canada geese in certain areas described as follows:

a. Area one. Portions of Emmet County bounded as follows: Beginning at the northwest corner of section 3, township 98 north, range 33 west; thence east on the county road a distance of five miles; thence south on the county road a distance of three and one-half miles; thence west on the county road a distance of four miles; then continuing west one mile to the southwest corner of the northwest one-quarter of section 22, township 98 north, range 33 west; thence north on the county road to the point of beginning.

b. Area two. Portions of Clay and Palo Alto Counties bounded as follows: Beginning at the junction of County Roads N14 and B17 in Clay County, thence south four miles on N14 (including the road right-of-way), thence east one-half mile, thence east one mile on a county road, thence north one mile on a county road, thence east one mile on a county road to County Road N18, thence south and east approximately one mile on N18, thence east one and one-half miles on a Palo Alto County Road, thence north two miles on a county road, thence east approximately one and one-half miles on a county road, thence north two miles on a county road to County Road B17, thence west six miles to the point of beginning.

c. Area three. A portion of Dickinson County bounded as follows: Beginning at a point four and one-half miles west of the east junction of Highways 9 and 71; thence north along a county road to its junction with Dickinson County Road A15; thence generally north about three miles along A15 to its junction with Dickinson County Road M56; thence east along A15 about one and one-half miles; thence north along county roads to the Iowa-Minnesota state line; thence west along the state line seven and one-half miles; thence south along Highway 86 five miles to Highway 9; thence east along Highways 9 and 71 to the point of beginning.

d. Area four. Portions of Winnebago and Worth Counties bounded as follows: Beginning at a point two and one-half miles east of Lake Mills, Iowa, at the junction of State Highway 105 and County Road S10 (also named Bluebill Ave.); thence south along County Road S10 (including the right-of-way), i.e., Bluebill Ave., three-fourths mile to 448th St.; thence east three-fourths mile on 448th St. to Cardinal Ave.; thence south one-fourth mile to 445th St.; thence east one-fourth mile to Cedar Ave.; thence south one-half mile on Cedar Ave. to 440th St.; thence east three-fourths mile on 440th St. to Dove Ave.; thence south on Dove Ave. one-half mile to 435th St.; thence east one-fourth mile on 435th St. to Dove Ave.; thence south on Dove Ave. to County Road A34; thence east one mile on County Road A34 (including the right-of-way) to Evergreen Ave.; thence south two miles to County Road A38 (also named 410th St.); thence west eight and one-half miles along County Road A38 including the right-of-way; thence north four miles along County Road R72 (also named 210th Ave.) (including the right-of-way); thence east along State Highway 69 approximately one mile (including the right-of-way) to the intersection with State Highway 105; thence east along State Highway 105 (including the right-of-way) five miles to the point of beginning.

e. Area five. On any federal or state-owned lands or waters of the Rathbun Reservoir Project west of State Highway 142 in Appanoose, Lucas, Monroe, and Wayne Counties, including all federal, state, and county roads through or immediately adjacent thereto.

f. Area six. On Brown's Slough and the Colyn Area in Lucas County.

g. Area seven. Portions of Guthrie and Dallas Counties bounded as follows: Beginning at the junction of State Highways 4 and 44 in Panora; thence north along State Highway 4 (including the right-of-way) to County Road F25; thence east along County Road F25 (including the right-of-way) to York Avenue; thence south along York Avenue 1 mile (including the right-of-way) to 170th Street; thence east one-half mile (including the right-of-way) to A Avenue in Dallas County; thence south on A Avenue 5 miles (including the right-of-way) to State Highway 44; thence west along State Highway 44 (including the right-of-way) to the point of beginning.

h. Area eight. A portion of Adams County bounded as follows: Beginning at the intersection of State Highway 148 and Adams County Road N53 in Corning; thence east and north along Adams County Road N53 approximately 9.5 miles to Adams County Road H24 (including the right-of-way); thence west along Adams County Road H24 (including the right-of-way) about 8 miles; thence south along Elm Avenue about 6 miles to Adams County Road H34; thence east along Adams County Road H34 (including the right-of-way) to State Highway 148; thence north along Highway 148 about three-fourths mile to the point of beginning.

i. Area nine. Portions of Monona and Woodbury Counties bounded as follows: Beginning at the Iowa-Nebraska state line along the Missouri River in Monona County at the southwest corner of the NW¼ of section 18, township 82 north, range 45 west; extending one and one-half miles east along an unnumbered county road to the center of section 17, township 82 north, range 45 west; then north one mile along county road to the center of section 8, township 82 north, range 45 west; thence east one mile along county road to the intersection of Monona County Roads K45 and E60; thence north and northwest approximately 20 miles along Monona County Road K45 to the junction with State Highway 970 in Woodbury County; thence continuing northwest along State Highway 970 (including the right-of-way) approximately 13 miles to the intersection with 220th Street; thence west approximately 3 miles along the Sergeant Bluff Drainage Ditch to the Iowa-Nebraska state line along the Missouri River; thence southerly along the state line approximately 43 miles to the point of beginning.

j. Area ten. Portions of Winnebago and Hancock Counties bounded as follows: On all lands and waters managed by the Winnebago County Conservation Board at Thorpe Park, the Thorpe Recreation Area and the Russ Wildlife Area in Winnebago and Hancock Counties.

k. Area eleven. Starting at the junction of the navigation channel of the Mississippi River and the mouth of the Maquoketa River in Jackson County, proceeding southwesterly along the high-water line on the west side of the Maquoketa River to U.S. Highway 52, south along U.S. Highway 52 (including the right-of-way) to the intersection with County Road Z-40, south on County Road Z-40 (including the right-of-way) to the junction with U.S. Highway 64, east on U.S. Highway 64 to the Sioux Line Railroad at Sabula, north and west along the Sioux Line Railroad to the east edge of section 27, township 85N, range 6 east, north to the intersection of sections 27 and 22, west along the common boundary of sections 27 and 22 and sections 28 and 21, township 85N, range 6 east, to the Green Island levee, northeast along a line following the Green Island levee to the center of the navigational channel of the Mississippi River, north along the center of the navigational channel to the point of beginning.

l. Area twelve. Portions of Polk, Warren, Jasper, and Marion Counties bounded as follows: Beginning at the junction of County Road G40 and Iowa Highway 14 in Marion County; thence north along Highway 14 to Iowa Highway 163 in Jasper County; thence north and west along Highway 163 to State Highway 316; thence south and east along Highway 316 (including the right-of-way) to Iowa Highway 5; thence south and east along Highway 5 to County Road G40 in Marion County; thence east along County Road G40 to the point of beginning.

m. Area thirteen. Portions of Van Buren and Davis Counties bounded as follows: Beginning at the junction of Iowa Highway 16 and Iowa Highway 98 in Van Buren County; thence east and south along Highway 16 to County Road W40 in Van Buren County; thence south and west along County Road W40 to Iowa Highway 2 in Van Buren County; thence south and east along Highway 2 to Iowa Highway 81 in Van Buren County; thence south and west along Highway 81 to the Iowa-Missouri border; thence west along the Iowa-Missouri border to Iowa Highway 15 in Van Buren County; thence north along Highway 15 to County Road J56 in Van Buren County; thence west along County Road J56 to County Road V42 in Davis County; thence north along County Road V42 to County Road J40 in Davis County; thence east and south along County Road J40 to County Road V64 in Van Buren County; thence north along County Road V64 to Iowa Highway 98 in Van Buren County; thence north along Highway 98 to the point of beginning.

n. Area fourteen. Portions of Bremer County bounded as follows: Beginning at the northeast corner of section 4, township 93 north, range 11 west; thence south 16 miles, then east one-half mile, then south one mile along Bremer County Road V56; thence west 4½ miles along a county road right-of-way to Bremer County Road V49; thence north 4 miles along Bremer County Road V49 to Iowa Highway 3; thence west 2 miles along Iowa Highway 3 to Bremer County Road V43; thence north 4 miles along Bremer County Road V43 to Bremer County Road C33; thence west 4 miles along Bremer County Road C33 to U.S. Highway 63; thence north 9 miles along U.S. Highway 63 to the Bremer-Chickasaw County line; thence east 10 miles along the Bremer-Chickasaw County line to the point of beginning.

o. Area fifteen. Portions of Butler County bounded as follows: Beginning at the junction of Highway 3 and County Road T16, thence south 8 miles on County Road T16 to its intersection with County Road C55, thence east 9 miles on County Road C55 to its intersection with Highway 14, thence north 8 miles on Highway 14 to its intersection with Highway 3, thence west 9 miles on Highway 3 to the point of beginning; but, excluding those lands within this bounded area east of Jay Avenue managed by the department of natural resources as Big Marsh Management Area.

p. Area sixteen. A portion of Union County bounded as follows: Beginning at the intersection of U.S. Highways 34 and 169 near Thayer; thence west along U.S. Highway 34 (including the right-of-way) approximately nine miles to Union County Road P43 (also named Twelve Mile Lake Road); thence north along Union County Road P43 (including the right-of-way) approximately seven miles, thence east on an unnumbered county road approximately four and one-half miles; thence south on an unnumbered county road to Union County Road H17, thence east along Union County Road H17 (including the right-of-way) to U.S. Highway 169; thence south along U.S. Highway 169 (including the right-of-way) to the point of beginning.

q. Area seventeen. Portions of Fremont and Mills Counties bounded as follows: Beginning at the Iowa-Nebraska state line along the Missouri River in Fremont County at the southwest corner of the SE ¼ of section 23, township 69 north, range 44 west; extending east approximately one-half mile to Fremont County Road J-26, thence six and one-half miles east on Fremont County Road J-26 (including the right-of-way) to the intersection with Fremont County Road L-44; thence northerly approximately ten miles on Fremont County Road L-44 (including the right-of-way) to the intersection with Fremont County Road J-10, thence approximately three miles northwest along the base of the Loess Hills to Mills County Road H-36 in the NW ¼ of section 27, township 71 north, range 43 west, thence northerly approximately seven miles along Mills County Road H-36 (including the right-of-way) to the intersection with Iowa Highway 385; thence approximately two and one-fourth miles southwesterly along Iowa Highway 385 (including the right-of-way) to the intersection with U.S. Highway 34, thence approximately three miles west on U.S. Highway 34 (including the right-of-way) to the Iowa-Nebraska state line along the Missouri River, thence southerly along the state line approximately 20 miles to the point of beginning.

91.4(3) *Forney Lake.* The entire Forney Lake area, in Fremont County, north of the east-west county road, shall be closed to waterfowl hunting prior to the opening date for taking geese on the area each year.

571—91.5(481A) Canada goose hunting within closed areas.

91.5(1) *Ruthven, Kettleson-Hogsback, Ingham Lake and Rice Lake closed areas.*

a. Purpose. The hunting of Canada geese in closed areas is being undertaken to allow landowners or tenants who farm in these closed areas to hunt Canada geese on land they own or farm in the closed area.

b. Criteria.

(1) Landowners and tenants who own or farm land in the closed areas will be permitted to hunt Canada geese in the closed areas for three years. This experimental hunting opportunity will be evaluated by the landowners and the DNR following each season, at which time changes may be made.

(2) Landowners and those individuals named on the permit according to the criteria specified in paragraph (9) of this subrule will be permitted to hunt in the closed area. Tenants may obtain a permit instead of the landowner if the landowner transfers this privilege to the tenant. Landowners may choose, at their discretion, to include the tenant and those individuals of the tenant's family specified in paragraph (9) of this subrule on their permit. Landowners may assign the permit for their land to any landowner or tenant who owns or farms at least eight acres inside the closed area. Assigned permits must be signed by both the permittee and the landowner assigning the permit.

(3) Landowners must hold title to, or tenants must farm by a rent/share/lease arrangement, at least eight acres inside the closed area to qualify for a permit.

(4) No more than one permit will be issued to corporations, estates, or other legal associations that jointly own land in the closed area. No individual may obtain more than two permits nor may an individual be named as a participant on more than two permits.

(5) Persons holding a permit can hunt with those individuals named on their permit as specified in paragraph (9) of this subrule on any property they own (or rent/share/lease in the case of tenants) in the closed area provided their activity complies with all other regulations governing hunting. Nothing herein shall permit the hunting of Canada geese on public property within the closed area.

(6) Persons hunting under this permit must adhere to all municipal, county, state and federal regulations that are applicable to hunting and specifically applicable to Canada goose hunting including, but not limited to: daily limits, possession limits, shooting hours, methods of take, and transportation. Hunting as authorized by this rule shall not be used to stir or rally waterfowl.

(7) Hunting within the closed area will be allowed through October 15.

(8) Permit holders will be allowed to take eight Canada geese per year in the closed area.

(9) Permits will be issued only to individual landowners or tenants; however, permit holders must specify, when requesting a permit, the names of all other individuals qualified to hunt on the permit. Individuals qualified to hunt on the permit shall include the landowners or tenants and their spouses, children, children's spouses, grandchildren, siblings and siblings' spouses only.

c. Procedures.

(1) Permits can be obtained from the local conservation officer at the wildlife unit headquarters within the closed area at announced times, but no later than 48 hours before the first Canada goose season opens. The permit will be issued to an individual landowner or tenant and must list the names of all individuals that may hunt with the permittee. The permit will also contain a description of the property covered by the permit. The permit must be carried by a member of the hunting party whose name is listed on the permit. Conservation officers will keep a record of permittees and locations of properties that are covered by permits.

(2) Eight consecutively numbered tags will be issued with each permit. Geese will be tagged around the leg immediately upon being reduced to possession and will remain tagged until delivered to the person's abode. Within one week of the close of hunting within the closed area, unused tags must be turned in at the wildlife unit headquarters within the closed area or the permittee must report the number of geese killed. Failure to turn in unused tags or report the number of geese killed within the specified time period may result in the permittee's forfeiting the opportunity to hunt within the closed area the following year.

(3) No one may attempt to take Canada geese under this permit unless the person possesses an unused tag for the current year.

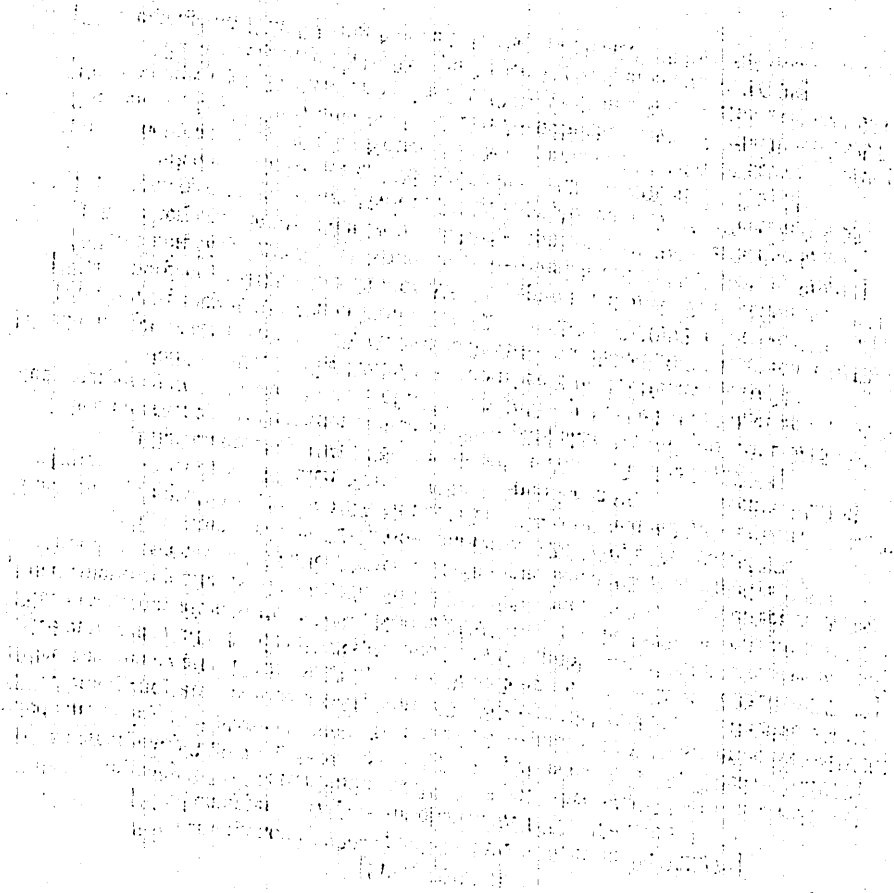
(4) No landowner or tenant shall be responsible or liable for violations committed by other individuals listed on the permit issued to the landowner or tenant.

91.5(2) Reserved.

571—91.6(481A) Youth waterfowl hunt. A special youth waterfowl hunt will be held statewide on October 9, 1999. Youth hunters must be 15 years old or younger. Each youth hunter must be accompanied by an adult 18 years old or older. The youth hunter does not need to have a hunting license or stamps. The adult must have a valid hunting license and habitat stamp if normally required to have them to hunt and a state waterfowl stamp. Only the youth hunter may shoot ducks, coots and Canada geese. The adult may hunt for any other game birds for which the season is open. The daily bag limits are the same as for the regular waterfowl season, as defined in subrule 91.1(1), except the season for snow geese will not be open. The possession limit is the same as the daily bag limit. All other hunting regulations in effect for the regular waterfowl season apply to the youth hunt.

These rules are intended to implement Iowa Code sections 481A.38, 481A.39, and 481A.48.

[Filed 8/29/75]
[Filed emergency 9/2/76—published 9/22/76, effective 9/22/76]
[Filed emergency 9/1/77—published 9/21/77, effective 9/1/77]
[Filed emergency 8/30/78 after Notice of 3/8/78—published 9/20/78, effective 8/30/78]
[Filed emergency 8/29/79 after Notice of 3/7/79—published 9/19/79, effective 8/29/79]
[Filed emergency after Notice 8/29/80, Notice 3/5/80—published 9/17/80, effective 8/29/80]
[Filed emergency after Notice 9/4/81, Notice 3/4/81—published 9/30/81, effective 9/4/81]
[Filed emergency after Notice 9/2/82, Notice 3/3/82—published 9/29/82, effective 9/3/82]
[Filed emergency after Notice 9/1/83, Notice 3/30/83—published 9/28/83, effective 9/2/83]
[Filed emergency after Notice 9/7/84, Notice 2/29/84—published 9/26/84, effective 9/7/84]
[Filed emergency after Notice 9/5/85, Notice 2/27/85—published 9/25/85, effective 9/6/85]
[Filed emergency 9/3/86 after Notice 2/26/86—published 9/24/86, effective 9/5/86]
[Filed without Notice 12/12/86—published 12/31/86, effective 2/4/87]
[Filed emergency after Notice 9/4/87, Notice 3/11/87—published 9/23/87, effective 9/4/87]
[Filed emergency 9/2/88 after Notice 2/24/88—published 9/21/88, effective 9/2/88]
[Filed emergency 10/12/88—published 11/2/88, effective 10/12/88]
[Filed emergency 9/15/89 after Notice 3/8/89—published 10/4/89, effective 9/15/89]
[Filed emergency 9/13/90 after Notices of 3/7/90, 5/2/90—published 10/3/90, effective 9/13/90]
[Filed 2/15/91, Notice 12/26/90—published 3/6/91, effective 4/10/91]
[Filed emergency after Notice 9/13/91, Notice 3/6/91—published 10/2/91, effective 9/13/91]
[Filed emergency 9/10/92 after Notice 3/4/92—published 9/30/92, effective 9/10/92]
[Filed emergency 9/10/93 after Notice 3/31/93—published 9/29/93, effective 9/10/93]
[Filed emergency 9/9/94 after Notice 3/2/94—published 9/28/94, effective 9/9/94]
[Filed emergency 9/8/95 after Notice 3/1/95—published 9/27/95, effective 9/8/95]
[Filed emergency 9/8/95 after Notice 7/5/95—published 9/27/95, effective 9/8/95]
[Filed 8/9/96, Notice 6/5/96—published 8/28/96, effective 10/2/96]
[Filed emergency 8/23/96 after Notice 2/28/96—published 9/11/96, effective 8/23/96]
[Filed emergency 9/19/97 after Notice 3/12/97—published 10/8/97, effective 9/19/97]
[Filed emergency 8/21/98 after Notice 3/11/98—published 9/9/98, effective 8/21/98]
[Filed emergency 10/16/98—published 11/4/98, effective 10/16/98]
[Filed emergency 8/20/99 after Notice 3/10/99—published 9/8/99, effective 8/20/99]



PERSONNEL DEPARTMENT[581]

[Created by 1986 Iowa Acts, Senate File 2175]
[Merit Employment Department[570] prior to July 1, 1986]

CHAPTER 1
DEFINITIONS
[Prior to 11/5/86, Merit Employment Department[570]]

581—1.1(19A) Definitions.

"Absence without leave" means any absence of an employee from duty without specific authorization.

"Act" means Iowa Code chapter 19A creating the department of personnel.

"Agency" means a department, independent agency, or statutory office provided for in the Iowa Code section 7E.2.

"Appointing authority" means the appointed or elected chief administrative head of a department, commission, board, independent agency, or statutory office or that person's designee.

"Base pay" means a fixed rate of pay for an employee that is exclusive of shift or educational differential, special or extraordinary duty pay, leadworker pay, or any other additional special pay.

"Call back pay" means extra pay for eligible employees who are directed by the appointing authority to report back to work outside of their regular scheduled work hours that are not contiguous to the beginning or the end of their scheduled work hours.

"Certification" means the referral of available names from an eligible list to an agency for the purpose of making a selection in accordance with these rules.

"Certified disability program" means that program covering persons with disabilities who have been certified by the vocational rehabilitation division of the department of education or the department for the blind as being able to perform the duties of a job class without participation in examinations used for the purpose of ranking qualified applicants on nonpromotional eligible lists.

"Class" means one or more positions so similar in duties, responsibilities, and qualifications that each may be assigned to the same job title and pay plan.

"Classification plan" means the printed list of job classifications and the related elements assigned to each. The classification plan is published annually by the department and revised as necessary.

"Compensatory leave" means leave accrued as a result of overtime, call back, standby, holidays, or holiday work.

"Confidential employee" means, for purposes of merit system coverage, the personal secretary of: an elected official of the executive branch or a person appointed to fill a vacancy in an elective office, the chair of a full-time board or commission, or the director of a state agency; as well as the nonprofessional staff in the office of the auditor of state, and the nonprofessional staff in the department of justice except those reporting to the administrator of the consumer advocate division.

"Confidential employee" means for purposes of collective bargaining coverage, a representative of the employer who, as a major function of the job, determines and effectuates employment relations policy for the appointing authority, exercises independent discretion in establishing such policies, or is so closely related to or aligned with management as to potentially place the employee in a position of conflict of interest between the employer and coworkers. It also means any employee who works for the department, who has access to information subject to use in collective bargaining negotiations, or who works in a close continuing relationship with representatives associated with negotiating collective bargaining agreements on behalf of the state, as well as the personal secretary of: an elected official of the executive branch or a person appointed to fill a vacancy in an elective office, the chair of a full-time board or commission, or the director, deputy director, or division administrator of a state agency.

*Objection filed 12/2/86, see "Objection, 1.1" following. This definition was amended IAB 1/15/97, effective 2/19/97.

"Demotion" means the change of a nontemporary employee from one class to another having a lower pay grade. Demotions of permanent employees may be disciplinary, in lieu of layoff, or voluntary. Demotions of probationary employees may be disciplinary or voluntary.

"Department" means the Iowa department of personnel.

"Director" means the director of the Iowa department of personnel or the director's designee.

"Double spouse" means a husband and wife both employed by the state of Iowa.

"Examination" means the further screening of persons who meet the minimum qualifications for a job classification in order to have their names and scores placed on eligible lists.

"Fee-for-services contractor" means a person or entity that provides services on a contracted basis and who is paid a predetermined amount under that contract for rendering those services.

"Grievance" means an expressed difference, dispute, or controversy between an employee and the appointing authority, with respect to circumstances or conditions of employment.

"Health care provider" means a doctor of medicine or osteopathy who is authorized to practice medicine or perform surgery by the state in which the doctor practices, or any other person determined by the U.S. Secretary of Labor to be capable of providing health care services.

"Immediate family" means the employee's spouse, children, grandchildren, foster children, stepchildren, legal wards, parents, grandparents, foster parents, stepparents, brothers, foster brothers, stepbrothers, sons-in-law, brothers-in-law, sisters, foster sisters, stepsisters, daughters-in-law, sisters-in-law, aunts, uncles, nieces, nephews, first cousins, corresponding relatives of the employee's spouse, and other persons who are members of the employee's household.

"In loco parentis" means in the place of a son, daughter or parent and charged with the same rights, duties, and responsibilities as a son, daughter or parent.

"IRC" means Internal Revenue Code.

"Job classification" means one or more positions sufficiently similar in kind and level of duties and responsibilities that they may be grouped under the same title, pay plan, pay grade, and other elements included in the classification plan.

"Lead work" means a responsibility assigned to an employee by management to direct (instruct, answer questions, distribute and balance work load, accept, modify or reject completed work, maintain attendance records, report infractions and provide input on staffing decisions) the work of two or more employees (federal, state, county, municipal and private employment organization, volunteers, inmates or residents).

"Long-term disability" means a condition of an employee who is determined by the state of Iowa's long-term disability insurance carrier to be unable to work because of illness or injury.

"Merit system" means those positions or employees in the state personnel system determined by the director to be covered by the provisions of Iowa Code chapter 19A as it pertains to qualifications, examinations, competitive appointments, probation, and just cause discipline and discharge hearings.

"Minimum qualifications" means the minimum education, experience, or other background required to be considered eligible to apply for, or otherwise perform the duties of a particular job classification. Minimum qualifications are published in classification descriptions, and pertain only to positions covered by merit system provisions.

"Nonpay status" means that period of time when an employee does not work during scheduled work hours and the work absence is not covered by any kind of paid leave. This includes employees who do not supplement workers' compensation payments with paid leave.

"Overtime" means those hours that exceed 40 in a workweek for which an employee is entitled to be compensated.

"Overtime covered class, employee, or position" means a class, employee, or position determined to be eligible for premium overtime compensation in accordance with the federal Fair Labor Standards Act.

"Overtime exempt class, employee, or position" means a class, employee, or position determined to be ineligible for premium overtime compensation.

"Pay increase" means a periodic step or percentage increase in pay within the pay range for the class based on time spent, performance, or both.

"Pay plan" means one of the various schedules of pay grades and salaries established by the director to which classes in the classification plan are assigned.

"Permanent employee" means any executive branch employee (except board of regents employees) who has completed at least six months of continuous nontemporary employment. When used in conjunction with coverage by the merit system provisions referred to in Iowa Code section 19A.2A, unnumbered paragraph 3, it further means those employees who have completed the period of probationary status provided for in Iowa Code subsection 19A.9(8).

"Position" means the grouping of specific duties and responsibilities assigned by an appointing authority that comprise a job to be performed by one employee. A position may be part-time or full-time, temporary or permanent, occupied or vacant, eligible or not eligible to be covered by a collective bargaining agreement, or covered or not covered by merit system provisions. Each position in the executive branch of state government shall be assigned one of the job classifications published in the classification plan.

"Position classification review" means the process of studying the kind and level of duties and responsibilities assigned to a position by comparing those duties and responsibilities to classification descriptions, classification guidelines, or other pertinent documents in order to determine the proper job classification to which a position will be assigned.

"Premium rate" means compensation equal to one and one-half hours for each hour of overtime.

"Probationary employee" means any executive branch employee (except board of regents employees) who has completed less than six months of continuous nontemporary employment. When used in conjunction with coverage by the merit system provisions referred to in Iowa Code section 19A.2A, unnumbered paragraph 3, it further means those employees who have not completed the period of probationary status provided for in Iowa Code subsection 19A.9(8).

"Promotion" means the acceptance by a nontemporary employee of an offer by an appointing authority to move to a position in a class with a higher pay grade and may involve movement between positions covered by merit system provisions and positions not covered by merit system provisions.

"Reassignment" means the movement of an employee and the position the employee occupies within the same organizational unit or to another organizational unit at the discretion of the appointing authority. A reassignment may include a change in duties, work location, days of work or hours of work, and may be temporary or permanent. A reassignment may result in a change form the employee's previous job classification.

"Reclassification" means the change of a position from one job classification to another based upon changes in the kind or level of the duties and responsibilities assigned by an appointing authority.

"Red-circled salary" means an employee's salary that exceeds the maximum for the pay grade in the pay plan to which the employee's class is assigned.

"Regular rate of pay" means the total compensation an employee receives including base pay, shift or educational differential, special or extraordinary duty pay, leadworker pay, or any other additional special pay.

"Same pay grade" means those pay grades in the various pay plans having the same pay grade number as well as those pay grades using a three-step pay range where those steps correspond to the top three steps of a six-step range. A three-step pay grade shall be considered the same as the corresponding six-step pay grade in determining whether an action is a promotion, demotion, or transfer.

"Serious health condition" means an illness, injury or impairment, or physical or mental condition that involves inpatient care in a hospital, hospice or residential care facility or continuing treatment (i.e., two or more visits or treatments, or one visit that results in a continuing regimen of treatment) by a health care provider causing an absence from school or work of more than three consecutive days.

"Service in the uniformed services" means the performance of duty on a voluntary or involuntary basis in a uniformed service under competent authority and includes active duty, active duty for training, initial active duty for training, inactive duty training, full-time national guard duty, or examination to determine the fitness of the person to perform such duty.

"Shift" means one segment of a 24-hour period in the work schedule of an appointing authority (e.g., day, evening, night shift).

"Shift differential" means extra pay for eligible employees who work shifts other than the day shift.

"Special duty assignment" means the temporary assignment of a permanent employee to a position in another class.

"Standby" means those times when eligible employees are required by the appointing authority to restrict their activities during off-duty hours so as to be immediately available for duty when required by the appointing authority, and is other than simply the requirement to leave word of their whereabouts in case of the need to be contacted.

"Supervision" means a responsibility assigned to an employee by management to direct the work of two or more employees and to hire, evaluate, reward, promote, transfer, lay off, recall, respond to grievances and discipline those employees.

"Temporary" means employment for a limited period of time, or employees with seasonal, emergency, intermittent, internship, trainee, or temporary status.

"Temporary services" means staffing provided by an outside vendor under an authorized contract, such as a temporary employment service, for a limited period of time.

"Transfer" means the movement of an employee from a position in a job class to a vacant position for which the employee qualifies in the same or different job class in the same pay grade. A transfer may include a change in duties, work location, days of work or hours of work. A transfer may be voluntary at the request of the employee, or involuntary at the discretion of the appointing authority.

"Uniformed services" means the United States armed forces and organized reserves (army, navy, air force or marines), the army national guard and the air national guard when engaged in active duty for training, inactive duty training, or full-time national guard duty, organized reserve duty, the commissioned corps of the public health service, coast guard, and any other category of persons designated by the President in time of war or emergency.

"Veteran" means any person honorably separated from active duty with the armed forces of the United States who served in any war, campaign, or expedition during the dates specified in Iowa Code section 35C.1.

"Work time" means all hours spent performing the duties of an assigned job; travel between job sites during or after the employee's regular hours of work (where no overnight expenses are involved); rest periods allowed during the employee's regular hours of work; and meal periods when less than 30 consecutive minutes is provided.

"Workweek" means a regularly recurring period of time within a 168-hour period of seven consecutive 24-hour days.

This rule is intended to implement Iowa Code section 19A.9.

[Filed 6/9/70; amended 1/15/75, amended IAC Supp. 7/28/75—published 9/22/75, effective 10/27/75]
[Filed 8/2/78, Notice 6/28/78—published 8/23/78, effective 9/27/78]
[Filed 10/12/79, Notice 8/22/79—published 10/31/79, effective 12/5/79]
[Filed 2/28/80, Notice 12/26/79—published 3/19/80, effective 4/23/80]
[Filed 11/7/80, Notice 6/25/80—published 11/26/80, effective 12/31/80]
[Filed 1/2/81, Notice 10/1/80—published 1/21/81, effective 2/25/81]
[Filed 8/14/81, Notice 6/24/81—published 9/2/81, effective 10/7/81]
[Filed 12/3/82, Notice 10/13/82—published 12/22/82, effective 1/26/83*]
[Filed emergency 7/15/83—published 8/3/83, effective 7/15/83]
[Filed 10/21/83, Notice 8/3/83—published 11/9/83, effective 12/14/83]
[Filed 2/24/84, Notice 1/4/84—published 3/14/84, effective 4/18/84]
[Filed 3/22/85, Notice 10/24/84—published 4/10/85, effective 5/15/85]
[Filed 7/26/85, Notice 5/22/85—published 8/14/85, effective 9/18/85]
[Filed 12/13/85, Notice 10/9/85—published 1/1/86, effective 2/5/86]
[Filed 4/4/86, Notice 1/15/86—published 4/23/86, effective 5/28/86]
[Filed emergency 7/1/86—published 7/30/86, effective 7/1/86]**
[Filed 10/17/86, Notice 8/13/86—published 11/5/86, effective 12/10/86]
[Filed 7/24/87, Notice 6/17/87—published 8/12/87, effective 9/16/87]
[Filed 9/29/89, Notice 8/23/89—published 10/18/89, effective 11/24/89]
[Filed 5/25/90, Notice 4/18/90—published 6/13/90, effective 7/20/90]
[Filed 2/1/91, Notice 12/12/90—published 2/20/91, effective 3/29/91]
[Filed 11/20/91, Notice 8/21/91—published 12/11/91, effective 1/17/92]
[Filed 3/26/93, Notice 2/17/93—published 4/14/93, effective 5/19/93]
[Filed emergency 8/5/93—published 9/1/93, effective 8/5/93]
[Filed 12/12/96, Notice 10/23/96—published 1/15/97, effective 2/19/97]
[Filed 12/23/98, Notice 11/4/98—published 1/13/99, effective 2/17/99]
[Filed 8/12/99, Notice 6/16/99—published 9/8/99, effective 10/13/99]

*Effective date of 1.1(13), 1.1(31), 1.1(32), 1.1(35), and 1.1(54) delayed 70 days by the Administrative Rules Review Committee. Delay lifted by Committee on 2/8/83. See details following chapter analysis.
**See IAB Personnel Department.

[illegible]

CHAPTER 3
JOB CLASSIFICATION
[Prior to 11/5/86, Merit Employment Department[570]]

581—3.1(19A) Overall administration.

3.1(1) The director shall prepare, maintain, and revise a classification plan for the executive branch of state government such that positions determined by the director to be similar with respect to kind and level, as well as skill, effort, and responsibility of duties assigned may be included in the same job classification.

3.1(2) The director may add, delete, modify, suspend the use of or subdivide job classifications to suit the needs of the executive branch of state government.

581—3.2(19A) Classification descriptions and guidelines.

3.2(1) Classification descriptions are developed and published by the department as needed. They contain information about the job classification which may include examples of duties and responsibilities assigned, knowledges, abilities and skills required, and qualifications. They may be used by department staff as one of several resources for arriving at position classification decisions.

Classification descriptions are not intended to be all-inclusive. That some duties performed by an incumbent are or are not included in a classification description is in no way to be construed as an indication that a position is or is not assigned to the correct or incorrect job classification. Position classification decisions shall be based upon the preponderance of duties assigned to the position.

3.2(2) Position classification guidelines are developed and published by the department as needed. Their purpose is to document information about the duties and responsibilities that may be typically associated with a job classification or a series of job classifications. They may describe the kind and level of duties assigned, as well as the skill, effort, responsibilities and working conditions associated with job performance. Where the job classification being described is one in a series, the position classification guideline may compare and contrast the similarities and differences among levels in the series.

Position classification guidelines are generally intended for use by department staff as one of several resources that may be used in arriving at position classification decisions.

3.2(3) Nothing in a classification description or a position classification guideline shall limit an appointing authority's ability to assign, add to, delete or otherwise alter the duties of a position.

3.2(4) Changes to the minimum qualifications in a classification description shall have no effect on the status of employees in positions in that class, except where licensure, registration, or certification is changed or newly required.

581—3.3(19A) Position description questionnaires. Position description questionnaires shall be submitted to the director and kept current by the appointing authority on forms prescribed by the director for each position under an appointing authority's jurisdiction. The appointing authority shall assign duties to positions and may add to, delete or alter the duties of positions. An updated position description questionnaire shall be submitted to the department by the appointing authority whenever requested by the director or whenever changes in responsibilities occur that may impact a position's classification. Position description questionnaires are a public record.

581—3.4(19A) Position classification reviews.

3.4(1) The director shall decide the classification of all positions in the executive branch of state government except those specifically determined and provided for by law. Position classification decisions shall be based solely on duties permanently assigned and performed.

3.4(2) Position classification decisions shall be based on documented evidence of the performance of a kind and level of work that is permanently assigned and performed over 50 percent of the time and that is attributable to a particular job classification.

3.4(3) The director may initiate specific or general position classification reviews. An appointing authority or an incumbent may also submit a request to the director to review a specific position's classification. When initiated by other than the director, position classification review decisions shall be issued within 60 calendar days after the request is received by the department. If additional information is required by the department, it shall be submitted within 30 calendar days following the date it is requested. Until the requested information is received by the department, the 60-calendar-day review period may be suspended by the department.

3.4(4) Notice of a position classification review decision shall be given by the department to the incumbent and to the appointing authority. The decision shall become final unless the appointing authority or the incumbent submits a request for reconsideration to the department. The request for reconsideration shall be in writing, state the reasons for the request and the specific classification requested, and must be received in the department within 30 calendar days following the date the decision was issued. The final position classification decision in response to a request for reconsideration shall be issued by the department within 30 calendar days following receipt of the request.

3.4(5) The maximum time periods in the position classification review process may be extended when mutually agreed to in writing and signed by the parties.

3.4(6) Following a final position classification review decision, any subsequent request for review of the same position must be accompanied by a showing of substantive changes from the position description questionnaire upon which the previous decision was based. A new position description questionnaire must be prepared and all new and substantively changed duties must be identified as such on the new questionnaire. The absence of a showing of substantive changes in duties shall result in the request being returned to the requester. A decision to return a request for failing to show substantive change in duties may be appealed to the classification appeal committee in accordance with rule 581—3.5(19A). The classification appeal committee shall rule only on the issue of whether a substantive change in duties has been demonstrated by the appellant. The appellant has the burden of proof to show by a preponderance of evidence that there has been a substantive change in duties.

3.4(7) The position classification review process is not a contested case.

581—3.5(19A) Classification appeals.

3.5(1) If, following a position classification review request, a decision notice is not issued within the time limit provided for in these rules, or the appointing authority or the incumbent does not agree with the department's final position classification review decision, the appointing authority or the incumbent may request a classification appeal committee hearing. The request shall be in writing and shall be mailed to: Chair, Classification Appeal Committee, Iowa Department of Personnel, Grimes State Office Building, East 14th Street at Grand Avenue, Des Moines, Iowa 50319-0150. The classification appeal hearing process is a contested case as defined by Iowa Code chapter 17A.

3.5(2) A classification appeal committee shall be appointed by the director.

3.5(3) A request for a classification appeal committee hearing must be in writing, state the reasons for the request and the specific classification requested. The request must be received in the department within 14 calendar days following the date the final position classification review decision notice was or should have been issued by the department.

3.5(4) The classification appeal committee hearing shall be scheduled within 30 calendar days following receipt of the request for a hearing unless otherwise mutually agreed to in writing and signed by the parties. All exhibits to be entered into evidence at the hearing shall be exchanged between the parties prior to the hearing. The hearing shall be held at the Grimes State Office Building during the regular business hours of the department. The appellant shall carry the burden of proof to show by a preponderance of evidence that the duties of the requested job classification are assigned and carried out on a permanent basis and are performed over 50 percent of the time. The committee shall grant or deny the job classification requested, remand the request to the director for further review, or decide whether there has been a substantive change in duties pursuant to an appeal under subrule 3.4(6) or 3.5(6). The committee's written decision shall be issued within 30 calendar days following the close of the hearing and the receipt of any posthearing submissions. The written decision of the committee shall constitute final agency action.

3.5(5) Requests for rehearing and judicial review of final classification appeal committee decisions shall be in accordance with Iowa Code section 17A.19.

3.5(6) Following a final classification appeal committee decision, any subsequent request for review of the same position must be accompanied by a showing of substantive changes from the position description questionnaire upon which the previous decision was based. A new position description questionnaire must be prepared, and all new and substantively changed duties must be identified as such on the new questionnaire. The absence of such a showing of substantive changes in duties shall result in the request being returned to the requester. A decision to return a request for failing to show substantive change in duties as defined in subrule 3.5(7) may be appealed to the classification appeal committee in accordance with rule 581—3.5(19A). The classification appeal committee shall rule only on the issue of whether a substantive change in duties has been demonstrated by the appellant. The appellant has the burden of proof to show by a preponderance of evidence that there has been a substantive change in duties.

3.5(7) As it relates to 581 IAC subrules 3.4(6) and 3.5(6), the phrase "substantive change" means that sufficient credible evidence exists, in the form of the deletion or addition to the duties in the requester's present classification, that would cause a reasonable person to believe that the duties of the requested classification are assigned and carried out on a permanent basis and are performed over 50 percent of the time.

581—3.6(19A) Implementation of position classification decisions.

3.6(1) Position classification changes shall not be retroactive and shall become effective only after approval by the director. Position classification changes approved by the director that are not made effective by the appointing authority within 90 calendar days following the date approved shall be void. Position classification changes that will have a budgetary impact shall not become effective approved by the department of management. If the appointing authority decides not to implement the change or the department of management does not approve funding for the change, duties commensurate with the current job classification shall be restored by the appointing authority within three pay periods following the date of that decision.

3.6(2) Except where licensure, registration or certification is required, an employee shall not be required to meet the minimum qualifications for the new job classification when a reclassification is the result of the correction of a position classification error, a class or series revision, the gradual evolution of changes in the position, legislative action, or other external forces clearly outside the control of the appointing authority.

3.6(3) An employee in a position covered by merit system provisions shall be required to meet the qualifications for the new job classification when the reclassification is the result of successful completion of an established training period where progression to the next higher level in the job classification series is customary practice, for reasons other than those mentioned in subrule 3.6(2), or when the reclassification is the result of a voluntary or disciplinary demotion. "Completion of an established training period" shall be the period provided for on the class descriptions for the class. In addition, employees with probationary status must be eligible for certification in accordance with 581—Chapter 9, Iowa Administrative Code.

3.6(4) In all instances of reclassification where licensure, certification, or obtaining a passing score on a test is required, that requirement shall be met by the employee within the time limits set forth by the director. If this requirement is not met, the provisions of rule 581—11.3(19A) shall apply.

3.6(5) Rescinded IAB 2/20/91, effective 3/29/91.

3.6(6) If an employee is ineligible to continue in a reclassified position and cannot otherwise be retained, the provisions of 581—Chapter 11, Iowa Administrative Code, regarding reduction in force shall apply.

3.6(7) An employee shall not be reclassified from a position covered by merit system provisions to a position not covered by merit system provisions without the affected employee's written consent regarding the change in merit system coverage. A copy of the written consent letter shall be forwarded by the appointing authority to the director. If the employee does not consent to the change in coverage, a reduction in force may be initiated in accordance with these rules or the applicable collective bargaining agreement provisions.

581—3.7(19A) Protected occupations; procedure for making determinations.

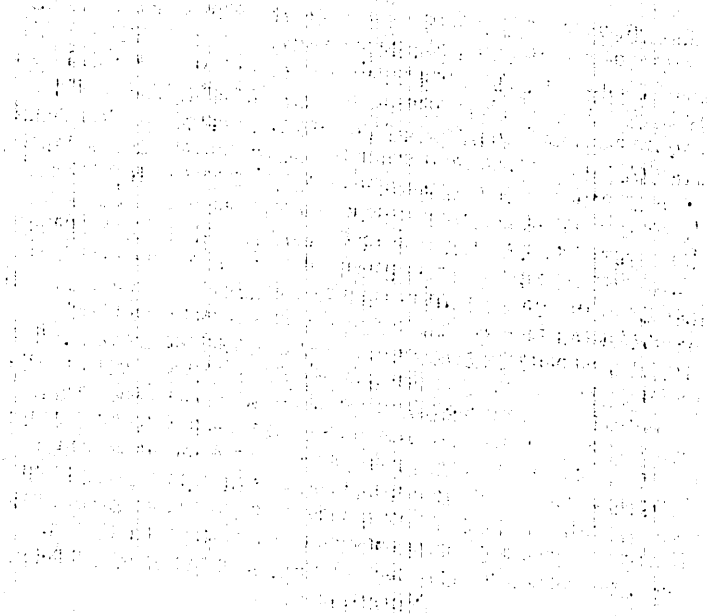
3.7(1) Persons employed by the department of corrections as correctional officers and correctional supervisors, and others whose primary purpose is, through ongoing direct inmate contact, to enforce and maintain discipline, safety and security within a correctional facility, shall be classified as IPERS protection occupation members pursuant to Iowa Code section 97B.49B(1)*"d"*(3). For purposes of this rule, "primary purpose" is defined to mean that the employee spends over 50 percent of the employee's work time in this activity on a permanent basis.

3.7(2) The director shall meet with the director of corrections to jointly determine which job classifications and positions shall be eligible for protection occupation coverage. The directors, or their designees, shall hear appeals from department of corrections employees concerning coverage. Such appeals shall be a contested case under Iowa Code chapter 17A. Decisions of the directors shall become final agency action under Iowa Code section 17A.19.

These rules are intended to implement Iowa Code section 19A.9 and Iowa Code chapters 19A, 19B and 70A.

[Filed 9/18/70]
[Filed 8/2/78, Notice 6/28/78—published 8/23/78, effective 9/27/78]
[Filed 11/7/80, Notice 9/3/80—published 11/26/80, effective 12/31/80]
[Filed 12/3/82, Notice 10/13/82—published 12/22/82, effective 1/26/83*]
[Filed 3/22/85, Notice 10/24/84—published 4/10/85, effective 5/15/85]
[Filed emergency 4/23/85—published 5/8/85, effective 5/15/85]
[Filed 7/26/85, Notice 5/22/85—published 8/14/85, effective 9/18/85]
[Filed emergency 7/1/86—published 7/30/86, effective 7/1/86]**
[Filed 10/17/86, Notice 8/13/86—published 11/5/86, effective 12/10/86]
[Filed 7/24/87, Notice 6/17/87—published 8/12/87, effective 9/16/87]
[Filed 9/2/88, Notice 6/29/88—published 9/21/88, effective 10/26/88]
[Filed 9/29/89, Notice 8/23/89—published 10/18/89, effective 11/24/89]
[Filed emergency 11/9/89—published 11/29/89, effective 11/24/89]
[Filed 2/1/90, Notice 12/13/89—published 2/21/90, effective 3/30/90]
[Filed 5/25/90, Notice 4/18/90—published 6/13/90, effective 7/20/90]
[Filed 2/1/91, Notice 12/12/90—published 2/20/91, effective 3/29/91]
[Filed 5/23/91, Notice 4/17/91—published 6/12/91, effective 7/19/91]
[Filed 11/20/91, Notice 8/21/91—published 12/11/91, effective 1/17/92]
[Filed 3/26/93, Notice 2/17/93—published 4/14/93, effective 5/19/93]
[Filed 12/12/96, Notice 10/23/96—published 1/15/97, effective 2/19/97]
[Filed 12/23/98, Notice 11/4/98—published 1/13/99, effective 2/17/99]
[Filed 8/12/99, Notice 6/16/99—published 9/8/99, effective 10/13/99]

*Effective date (1/26/83) of 3.4 and 3.7 delayed 70 days by the Administrative Rules Review Committee. Delay lifted by Committee on 2/8/83. See details following chapter analysis.
**See IAB Personnel Department
Note: The 7/24/91 IAC incorrectly identified subrule 3.5(5) as being delayed 70 days from 7/19/91. Correction published 8/7/91 IAC.



CHAPTER 4
PAY
[Prior to 11/5/86, Merit Employment Department[570]]

581—4.1(19A) Pay plan adoption. The director shall adopt pay plans for all classes and positions in the executive branch of state government, except as otherwise provided for in the Iowa Code.

581—4.2(19A) Pay plan content. Pay plans shall have numbered pay grades showing minimum and maximum salaries and intermediate salary steps, if applicable.

581—4.3(19A) Pay plan review and amendment. The director shall review pay plans at least annually and, taking into account the results of collective bargaining and other factors, may adjust pay ranges or reassign classes to different pay grades.

581—4.4(19A) Pay administration.

4.4(1) *Employees.* The director shall assign classes to pay plans and grades and shall assign employees to classes. Employees shall be paid either at one of the established steps or at a rate between the minimum and maximum of the pay grade of the class to which assigned. Pay decisions shall be at the discretion of the appointing authority, unless otherwise provided for in this chapter or by the director.

4.4(2) *Appointed officials.* Unless otherwise provided for in the Iowa Code or these rules, the staff of the governor, full-time board and commission members, department directors, deputy directors, division administrators, independent agency heads and others whose appointments are provided for by law or who are appointed by the governor may be granted pay increases of any amount at any time within the pay grade of the class or position to which appointed.

4.4(3) *Total compensation.* An employee shall not receive any pay other than that provided for the discharge of assigned duties, unless employed by the state in another capacity or specifically authorized in the Iowa Code, an Act of the general assembly or these rules.

4.4(4) *Part-time employment.* Pay for part-time employment shall be proportionate to full-time employment and based on hourly rates.

4.4(5) *Effective date of changes.* All pay changes shall be effective on the first day of a pay period, unless otherwise approved by the director. Original appointments, reemployment and reinstatements shall be effective on the employee's first day of work.

4.4(6) *General pay increases.* The director shall administer general pay increases for employees that have been authorized by the legislature and approved by the governor. An employee in a noncontract class whose pay has been red-circled above the maximum pay rate of the class to which assigned shall not receive a general pay increase, unless specifically authorized by the Acts of the general assembly or otherwise provided for in these rules.

4.4(7) *Pay corrections.* An employee's pay shall be corrected if it is found to be in violation of these rules or a collective bargaining agreement. If the correction is the result of an error or omission, the pay may be corrected within 12 pay periods following the date the employee's pay was incorrectly set or the transaction that should have occurred was omitted. Corrections shall be made on the first day of a pay period.

a. Retroactive pay. An employee may receive retroactive pay for a period of up to 90 calendar days preceding the date the error was corrected or the omission occurred. Requests for retroactive pay beyond 90 calendar days or which extend into a previous fiscal year must be submitted to the state appeal board.

b. Overpayment and underpayment. If an error results in an employee's being overpaid for wages, except for FICA, state and federal income taxes and IPERS contributions shall be collected. Also, premiums for health, dental and life insurance benefits that have been underpaid shall be subject to collection. An employee may choose to repay the amount from wages in the pay period following discovery of the error, have the overpayment deducted from succeeding pay periods not to exceed the number of pay periods during which the overpayment occurred, or the employee or appointing authority may submit an alternate repayment plan to the director. The director shall notify the appointing authority of the decision on the alternate repayment plan. The appointing authority shall submit the repayment plan on forms prescribed by the department beginning with the document correcting the employee's pay. If the employee terminates, the amount remaining shall be deducted from wages, vacation payout, applicable sick leave payout and any wage correction payback from IPERS.

581—4.5(19A) Appointment rates. An employee shall be paid at the minimum pay rate for the class to which appointed, except in the following instances:

4.5(1) *Individual advanced rate.* For new hires or promotions and upward reclassifications of employees in contract classes, the appointing authority may grant steps or pay rates in excess of the minimum. The appointing authority shall maintain a written record of the justification for the advanced rate. The record shall be a part of the official employee file. All employees possessing equivalent qualifications in the same class and with the same appointing authority may be adjusted to the advanced rate.

4.5(2) *Blanket advanced rate.* If there is a scarcity of applicants, an appointing authority may submit a written request to the director documenting the economic or employment conditions that make employment at the minimum pay rate for a class unlikely. The director may authorize appointments beyond the minimum rate for the class as a whole or in a specific geographical area. All current employees and new or promoted employees under the same conditions and in the same class shall be paid the higher rate. This rate shall remain in effect until rescinded by the director.

4.5(3) *Trainee.* The director may authorize trainee appointments below the minimum pay rate for a class as provided for in rule 581—8.9(19A). Pay shall be set one step or 5 percent below the minimum rate for each semester or equivalent amount of training the appointee lacks in meeting the minimum qualifications for the class to which appointed. Pay increases shall be automatic and coincide with the successful completion of each semester or additional equivalent amounts of training.

4.5(4) *Internship.* When an appointment is made to an intern class, the employee may be paid from the lowest pay rate in the pay plan to which the class is assigned up to 15 percent above the minimum of the pay grade for the class.

4.5(5) *Emergency, intermittent and seasonal.* When an appointment is made to a class on an emergency, intermittent or seasonal basis, the employee may be paid at any rate within the pay grade to which the class is assigned.

4.5(6) *Overlap.* When an appointment is made on an overlap basis, the employee shall be paid in accordance with this chapter. See rule 581—8.12(19A).

581—4.6(19A) Payroll transactions.

4.6(1) *Pay at least at minimum.* If a transaction results in an employee's being paid from a different pay plan or pay grade, the employee shall be paid at least the minimum pay rate of the class to which assigned, except as provided in subrules 4.5(3) and 4.5(4).

4.6(2) *Pay not to exceed maximum.* If a transaction results in an employee's being paid from a different pay plan or pay grade, the employee's pay shall not exceed the maximum pay rate of the class to which assigned, except as provided in subrule 4.6(3) or 4.6(13) or rule 4.8(19A).

4.6(3) *Red-circling.* If the pay of an employee in a noncontract class exceeds the maximum pay for the class to which assigned, the employee's pay may be maintained (red-circled) above the maximum for up to one year. Requests to change the time period or the red-circled rate must first be submitted to the director for approval. If approved, the appointing authority shall notify the employee in writing of any changes in the time period and the pay. If an employee's classification or agency changes, a request to rescind the red-circling may be submitted by the appointing authority to the director for approval. The director may also require red-circling in certain instances.

4.6(4) *Pay plan changes.* If a transaction results in an employee's being paid from a pay plan without steps, the employee shall be paid at the employee's current pay rate, except as provided in subrules 4.6(1) and 4.6(2). When the transaction results in an employee's being paid from a pay plan with steps, the employee shall be paid at a step in the pay plan that is closest to but not less than the employee's current pay rate, except that for demotions the employee's pay shall be at the discretion of the appointing authority so long as it is not greater than it was prior to the demotion. For setting eligibility dates, see subrule 4.7(5).

4.6(5) *Pay grade changes.* If a transaction results in an employee in a noncontract class being paid in a higher pay grade, the employee's pay may be increased by up to 5 percent for each grade above the employee's current pay grade, except as provided in subrules 4.6(1) and 4.6(2). The implementation of pay grade changes for employees in contract classes shall be negotiated with the applicable collective bargaining representative. For setting eligibility dates, see subrule 4.7(5).

4.6(6) *Promotion.* For setting eligibility dates, see subrule 4.7(5).

a. Noncontract classes. If an employee is promoted to a noncontract class, the employee may be paid at any rate in the pay grade of the pay plan to which the employee's new class is assigned, except as provided in subrules 4.6(1) and 4.6(2).

b. Contract classes. If an employee is promoted to a contract-covered class without steps, the employee shall receive a 5 percent pay increase. If promoted to a contract-covered class with steps, the employee shall receive a one-step pay increase, except as provided in subrules 4.5(1), 4.6(1), 4.6(2), and 4.6(4).

c. Leadworker. If an employee who is receiving additional pay for leadworker duties is promoted, the pay increase shall be calculated using the employee's new base pay plus the leadworker pay.

4.6(7) *Demotion.* If an employee demotes voluntarily or is disciplinarily demoted, the employee may be paid at any step or pay rate that does not exceed the employee's pay at the time of demotion, except as provided in subrules 4.6(1), 4.6(2) and 4.6(4). For setting eligibility dates, see subrule 4.7(5).

4.6(8) *Transfer.* If an employee transfers under these rules to a different class, the employee shall be paid at the employee's current pay rate, except as provided in subrules 4.6(1), 4.6(2) and 4.6(4).

4.6(9) *Reclassification.* If an employee's position is reclassified, the employee shall be paid as provided for in subrule 4.6(6), 4.6(7) or 4.6(8), whichever is applicable. For setting eligibility dates, see subrule 4.7(5).

4.6(10) *Return from leave.* If an employee returns from an authorized leave, the employee shall be paid at the same step or pay rate as prior to the leave, including any pay increases to which the employee would have been eligible if not on leave, except as provided for in subrules 4.6(1) and 4.6(2). For setting eligibility dates, see subrule 4.7(5).

4.6(11) *Recall.* If an employee is recalled in accordance with 581—subrule 11.3(6), the employee shall be paid at the same step or pay rate as when laid off or bumped, except as provided in subrules 4.6(1) and 4.6(2). For setting eligibility dates, see subrule 4.7(5).

4.6(12) *Reinstatement.* When an employee is reinstated in accordance with rule 581—8.6(19A), the employee may be paid at any step or pay rate for the class to which reinstated. When the rate of pay is decided to be greater than the pay at the time of separation, including any pay grade, pay plan, class or general salary increases, the decision to do so must be in accordance with subrule 4.5(1). For setting eligibility dates, see subrule 4.7(5).

4.6(13) *Change of duty station.* If an employee is promoted, reassigned or voluntarily demoted at the convenience of the appointing authority and a change in duty station beyond 25 miles is required, the employee may receive a one-step or up to 5 percent pay increase. The pay may exceed the maximum pay for the class to which assigned. Notice must first be given to the director. Subsequent changes in duty station may result in the additional pay being removed.

581—4.7(19A) Within grade increases.

4.7(1) *General.* An employee may receive a periodic step or percentage increase in base pay that is within the pay grade and pay plan of the class to which assigned upon completion of a minimum pay increase eligibility period.

a. Pay increase eligibility periods. The minimum pay increase eligibility period for employees paid from pay plans without steps shall be 52 weeks, except that it shall be 26 weeks for new hires and employees who receive an increase in base pay as a result of a promotion, reclassification or pay grade change. Minimum pay increase eligibility periods for employees paid from pay plans with steps shall be the number of weeks in the pay plan that corresponds to the employee's step.

b. Noncreditable periods. Except for required educational and military leave, periods of leave without pay exceeding 30 calendar days shall not count toward an employee's pay increase eligibility period.

c. Reduction of time periods. The director may authorize a reduction in pay increase eligibility periods for classes where there are unusual recruitment and retention circumstances.

4.7(2) *Noncontract classes.* An employee in a noncontract class may be given any amount of within grade pay increase up to the maximum pay rate for the employee's class. The pay increase shall be at the beginning of the pay period following completion of the employee's prescribed minimum pay increase eligibility period and shall not be retroactive, except as provided for in subrule 4.4(7).

a. Performance. Within grade pay increases shall be based on performance, and are not automatic, except as provided in subrule 4.5(3), and may be delayed beyond completion of the employee's minimum pay increase eligibility period. To be eligible, a within grade pay increase must be accompanied by a current performance evaluation on which the employee received a rating of at least "meets job expectations." Time spent on required educational or military leave shall be considered to "meet job expectations."

b. Lump sum. When budgetary conditions make it infeasible to grant within grade pay increases, an appointing authority may instead grant a lump sum increase. The increase shall not be added to the employee's base pay and shall be allowed only once in a fiscal year. Lump sum pay increases must be requested in writing from the director.

4.7(3) *Contract classes.* Within grade pay increases for employees in contract classes shall be in accordance with the terms of their collective bargaining agreement.

4.7(4) *Certified teachers.* Within grade pay increases for employees who are required to possess a current valid teaching certificate with appropriate endorsements and approvals by the Iowa department of education shall be based on length of service, performance and credentials.

4.7(5) *Eligibility dates.* An employee's pay increase eligibility date shall be set at the time of hire, and if the employee starts on the first working day of the pay period, it shall be the first day of the pay period following completion of the employee's minimum pay increase eligibility period. Otherwise, it shall be the first day of the pay period following the date the employee starts work.

a. General. A new eligibility date shall be set when an employee receives an increase in base pay, except when transferring in the same pay grade to a different pay plan. The following pay increase eligibility periods shall be used to set these dates.

(1) Fifty-two weeks for employees paid from pay plans without steps, except that for new hires and employees who receive a pay increase as a result of a promotion, reclassification or pay grade change it shall be 26 weeks.

(2) For employees paid from pay plans with steps, it shall be the number of weeks in the pay plan that corresponds to the employee's pay step after the pay increase.

b. Bumping. An employee who is recalled to a class from which the employee was bumped shall have a new eligibility date set if the pay increase eligibility period of the class to which recalled is less than the employee's current pay increase eligibility period.

c. No adjustment for educational or military leave. An employee who returns to work from required educational or military leave shall have the employee's eligibility date restored without adjusting for the period of absence.

d. Adjustments for returning from leave, recall and reinstatement. An employee who returns to work from a recall list or from an authorized leave of absence or who is reinstated shall have the employee's eligibility date restored, but adjusted for the period of absence that exceeds 30 calendar days.

e. Prior service credit. If a transfer or demotion results in an employee's having a longer pay increase eligibility period, credit shall be given for the time served toward completion of the employee's new pay increase eligibility period.

f. Administrative changes. The director may change eligibility dates when economic or other pay adjustments are made to the classification plan or pay plans.

4.7(6) *Suspension.* If within grade pay increases are suspended by an Act of the general assembly, the rules that provide for such increases shall also be suspended.

581—4.8(19A) Temporary assignments. Requests to provide employees with additional pay for temporary assignments shall first be submitted in writing to the director for review and indicate the reason and period of time required, if applicable. This pay may exceed the maximum for the employee's class. If temporary assignments are terminated or the duties removed, the additional pay shall also end.

4.8(1) *Leadworker.* An employee who is temporarily assigned lead work duties, as defined in rule 581—1.1(19A), may be given additional pay of up to 15 percent.

4.8(2) *Special duty.* An employee who is temporarily assigned to a vacant position in a class with a higher pay grade may be given additional pay equal to that provided in paragraph *"a"* or *"b"* of subrule 4.6(6), whichever is applicable.

4.8(3) *Extraordinary duty.* An employee who is temporarily assigned higher level duties, including supervisory duties, may be given additional pay in step or percent increments.

4.8(4) *Effect on within grade increases.* Temporary assignments shall not affect an employee's eligibility for within grade pay increases, and the additional pay amount shall be recalculated whenever a within grade pay increase is granted. The class to which the employee is temporarily assigned shall be controlling for purposes of overtime, shift differential, standby and call back pay.

581—4.9(19A) Special pay.

4.9(1) *Shift differential.* If an overtime eligible employee in a noncontract class works for an appointing authority whose operations require other than a day shift, the employee shall receive a shift differential if scheduled to work four or more hours between 6 p.m. and 6 a.m. for two or more consecutive workweeks, or is regularly assigned to rotate shifts. The amount of the shift differential shall be determined by the director and paid in cents per hour. There shall be one rate for the 6 p.m. to midnight time period and another higher rate for the midnight to 6 a.m. time period. Employees who work in both time periods shall be paid at the rate applicable to the period in which the majority of their hours are worked. Employees who work equal amounts in both time periods shall be paid at the higher rate. The differential shall be in addition to the employee's regular base pay and shall be paid for all hours in pay status.

Employees in overtime exempt noncontract classes may receive a shift differential if a request is first submitted in writing and approved by the director. Shift differential for employees in contract classes shall be in accordance with the terms of the applicable collective bargaining agreement.

4.9(2) *Call back.* If an overtime eligible employee in a noncontract class is directed to report to work during unscheduled hours that are not contiguous to the beginning or the end of the employee's assigned shift, the employee shall be paid a minimum of three hours. These hours shall be considered as hours worked for purposes of determining overtime, but shall not count as standby hours if the employee is in standby status. Employees in overtime exempt noncontract classes may be eligible for call back pay, if a request is first submitted in writing and approved by the director.

Call back for employees in contract classes shall be in accordance with the terms of the applicable collective bargaining agreement.

4.9(3) *Standby.* If an employee in an overtime eligible noncontract class is directed to be on standby after the end of the employee's shift, the employee shall be paid 10 percent of the employee's hourly pay rate for each hour in a standby status. If required to be on standby, an employee shall receive at least one hour of standby pay. Time spent working while on standby shall not count in determining standby pay, nor shall standby hours count for purposes of determining overtime. Employees in overtime exempt classes may be eligible for standby pay if a request is first submitted in writing and approved by the director. Standby for employees in contract classes shall be in accordance with the terms of the applicable collective bargaining agreement.

4.9(4) *Discretionary payments.* A lump sum payment for exceptional job performance may be given to an employee whenever the appointing authority deems it appropriate. A written explanation setting forth the reasons shall first be submitted to the director.

4.9(5) *Recruitment or retention payments.* A payment to a job applicant or an employee may be made for recruitment or retention reasons. A written explanation shall first be submitted in writing to the director.

As a condition of receiving recruitment or retention pay, the recipient must sign an agreement to continue employment with the appointing authority for a period of time following receipt of the payment that is deemed by the appointing authority to be commensurate with the amount of the payment. If the recipient is terminated for cause or voluntarily leaves state employment, the recipient will be required to repay the appointing authority for the proportionate amount of the payment for the time remaining, and it will be recouped from the final paycheck. When the recipient changes employment to another state agency, then a repayment schedule must be approved by the director. Recoupment will be coordinated with the department of revenue and finance to ensure a proper reporting of taxes.

581—4.10(19A) Phased retirement. An employee who participates in the phased retirement program shall receive 10 percent of the employee's regular biweekly pay in addition to being paid for the number of hours the employee works or is in pay status during the pay period. An employee who is on leave without pay during an entire pay period shall not receive the additional 10 percent for that pay period.

581—4.11(19A) Overtime.

4.11(1) *Administration.* Job classes shall be designated by the director as overtime eligible or overtime exempt.

4.11(2) *Eligible job classes.* An employee in a job class designated as overtime eligible shall be paid at a premium rate (one and one-half hours) for every hour in pay status over 40 hours in a workweek.

4.11(3) *Exempt job classes.* An employee in an overtime exempt job class shall not be paid for hours worked or in pay status over 40 hours in a workweek, except as specifically provided for in a collective bargaining agreement.

4.11(4) *Method of payment.* Payment of overtime for employees in noncontract classes shall be in cash or compensatory time. The decision shall rest with the employee, except that the appointing authority may require overtime to be paid in cash. Employees in noncontract classes may elect compensatory time for call back, standby, holiday hours and for working on a holiday. Payment of overtime for employees in contract classes shall be in accordance with the terms of the applicable collective bargaining agreement.

4.11(5) *Compensatory time.* An overtime eligible employee in a noncontract class may accrue up to 80 hours of compensatory time before it must be paid off. Compensatory time may be paid off at any time, but it shall be paid off if the employee separates, transfers to a different agency, or moves to a class with a different overtime eligibility designation. The paying off of compensatory time for employees in classes covered by a collective bargaining agreement shall be in accordance with the terms of the applicable agreement.

4.11(6) *Holiday hours.* Holiday hours that have already been paid at a premium rate shall not be counted in calculating overtime.

These rules are intended to implement Iowa Code section 19A.9.

[Filed 7/14/69; amended 6/9/70, 9/18/70, 11/10/70, 4/14/71, 1/18/72, 2/11/72, 8/16/73, 3/28/74, 7/26/74, 1/15/75]
[Amendment filed 9/4/75, Notice 7/28/75—published 9/22/75, effective 10/27/75; emergency amendment filed and effective 10/20/75—published 11/3/75]
[Emergency amendment filed and effective 11/4/75—published 11/17/75]
[Filed emergency 8/16/76—published 9/8/76, effective 8/16/76]
[Filed 8/17/77, Notice 7/13/77—published 9/7/77, effective 10/12/77]
[Filed 8/2/78—published 8/23/78, effective 9/27/78]
[Filed 8/2/78, Notice 6/28/78—published 8/23/78, effective 9/27/78]
[Filed emergency 10/9/78—published 11/1/78, effective 10/9/78]
[Filed emergency 10/16/78—published 11/1/78, effective 10/16/78]
[Filed 2/14/79, Notice 12/14/78—published 3/7/79, effective 4/11/79]
[Filed emergency 6/22/79—published 7/11/79, effective 6/22/79]
[Filed 8/30/79, Notice 7/11/79—published 9/19/79, effective 10/24/79]
[Filed 10/12/79, Notice 8/22/79—published 10/31/79, effective 12/5/79]
[Filed emergency 10/26/79—published 11/14/79, effective 10/26/79]
[Filed 4/30/80, Notice 12/12/80—published 5/28/80, effective 7/2/80]
[Filed 11/7/80, Notice 9/3/80—published 11/26/80, effective 12/31/80]
[Filed 1/2/81, Notice 10/1/80—published 1/21/81, effective 2/25/81]
[Filed 2/13/81, Notice 11/26/80—published 3/4/81, effective 4/8/81]

[Filed 3/26/81, Notice 1/7/81—published 4/15/81, effective 5/20/81]
[Filed emergency 7/6/81—published 7/22/81, effective 7/6/81]
[Filed 8/14/81, Notice 6/24/81—published 9/2/81, effective 10/7/81]
[Filed 8/28/81, Notice 7/22/81—published 9/16/81, effective 10/21/81]
[Filed 12/18/81, Notice 10/14/81—published 1/6/82, effective 2/10/82]
[Filed emergency after Notice 7/14/82, Notice 6/9/82—published 8/4/82, effective 7/14/82]
[Filed 12/3/82, Notice 10/13/82—published 12/22/82, effective 1/26/83*]
[Filed emergency 2/11/83—published 3/2/83, effective 2/11/83]
[Filed emergency 7/15/83—published 8/3/83, effective 7/15/83]
[Filed 10/21/83, Notice 8/3/83—published 11/9/83, effective 12/14/83]
[Filed 2/24/84, Notice 1/18/84—published 3/14/84, effective 4/18/84]
[Filed emergency 6/29/84—published 7/18/84, effective 7/1/84]
[Filed 8/24/84, Notice 7/18/84—published 9/12/84, effective 10/17/84]
[Filed 3/22/85, Notice 10/24/84—published 4/10/85, effective 5/15/85]
[Filed emergency 6/14/85—published 7/3/85, effective 6/14/85]
[Filed 7/26/85, Notice 5/22/85—published 8/14/85, effective 9/18/85]
[Filed emergency 8/23/85—published 9/11/85, effective 8/23/85]
[Filed 12/3/85, Notice 10/9/85—published 12/18/85, effective 1/22/86]
[Filed 12/13/85, Notice 10/9/85—published 1/1/86, effective 2/5/86]
[Filed 4/4/86, Notice 1/15/86—published 4/23/86, effective 5/28/86]
[Filed emergency 7/1/86—published 7/30/86, effective 7/1/86]**
[Filed 10/17/86, Notice 8/13/86—published 11/5/86, effective 12/10/86]
[Filed 7/24/87, Notice 6/17/87—published 8/12/87, effective 9/16/87]
[Filed 2/18/88, Notice 1/13/88—published 3/9/88, effective 4/13/88]
[Filed 4/29/88, Notice 3/9/88—published 5/18/88, effective 7/1/88]
[Filed 9/2/88, Notice 6/29/88—published 9/21/88, effective 10/26/88]
[Filed 10/27/88, Notice 9/21/88—published 11/16/88, effective 12/21/88]
[Filed 3/29/89, Notice 2/8/89—published 4/19/89, effective 5/26/89]
[Filed 9/29/89, Notice 8/23/89—published 10/18/89, effective 11/24/89]
[Filed 2/1/90, Notice 12/13/89—published 2/21/90, effective 3/30/90]
[Filed 5/25/90, Notice 4/18/90—published 6/13/90, effective 7/20/90]
[Filed 9/28/90, Notice 7/11/90—published 10/17/90, effective 11/23/90]
[Filed 2/1/91, Notice 12/12/90—published 2/20/91, effective 3/29/91]
[Filed 3/26/93, Notice 2/17/93—published 4/14/93, effective 5/19/93]
[Filed 12/12/96, Notice 10/23/96—published 1/15/97, effective 2/19/97]
[Filed 4/3/98, Notice 2/25/98—published 4/22/98, effective 5/27/98]
[Filed 12/23/98, Notice 11/4/98—published 1/13/99, effective 2/17/99]
[Filed 8/12/99, Notice 6/16/99—published 9/8/99, effective 10/13/99]

Filed objection to 4.5(2) overcome, see attorney general opinion 1/21/76, 1976 OAG 410
*Effective date of 4.3, 4.4, 4.5, 4.7, 4.9 and 4.10 delayed 70 days by Administrative Rules Review Committee. Delay lifted by Committee on 2/8/83. See details following chapter analysis.
**See IAB Personnel Department

CHAPTER 5
RECRUITMENT, APPLICATION AND EXAMINATION

[Prior to 11/5/86, Merit Employment Department [570]]

581—5.1(19A) Recruitment. Classes are closed to application from persons not employed by the state unless specifically opened for recruitment or as otherwise designated in subrule 5.2(4).

5.1(1) *Open recruitment announcements.* The director shall give public notice of classes opened for the recruitment of persons who are not employed by the state. Classes will remain open for a minimum of 15 calendar days following the announcement date. Recruitment may be limited to a specific geographic area or a specific selective background area or both. Recruitment announcements shall be posted in designated state offices. Copies may also be sent to newspapers, radio stations, educational institutions, professional and vocational associations, and other recruitment sources.

5.1(2) *Job opportunity announcements.* A list of job opportunities shall be posted on bulletin boards and in other conspicuous places throughout the agency involved.

5.1(3) *Content of announcements.* Announcements shall specify the class title, salary range, location, method for making application, closing date for receiving applications, minimum qualifications, any special requirements, and any selective certification requirements. All announcements must include a statement indicating that the state of Iowa is an affirmative action and equal employment opportunity employer. Announcements for continuous recruitment shall include a statement indicating that applications will be accepted until further notice.

5.1(4) *Advertising.* The appointing authority shall send to the director copies of all advertisements announcing employment opportunities that are to be placed in any publication, and any additional information required by the director. The appointing authority shall comply with any policies established by the director regarding advertising.

581—5.2(19A) Applications.

5.2(1) *Applicant information.* Applicant information shall be on forms prescribed by the director unless an alternate method has been authorized in a recruitment announcement. Applicants must supply at least their name, current mailing address, signature and social security number; however, if an applicant requests, a nine-digit number will be assigned by the department to be used in lieu of the social security number. If other than the social security number is requested, it shall be the applicant's responsibility to ensure that all future correspondence directed to the department regarding the applicant's records contains the assigned nine-digit number. All other information requested on the application will assist the department in accurately and completely processing and evaluating the application. Applications that are not complete may not be used or regarded as an official application. The director may require an applicant to submit documented proof of the possession of any license, certificate, degree, or other evidence of eligibility or qualification to satisfactorily perform the essential duties of the job classification with or without a reasonable accommodation.

5.2(2) *Verifying applicant information.* The director may at any time verify statements contained in an application and seek further information concerning an applicant's qualifications. If information is obtained which affects or would have affected an applicant's qualifications, standing on an eligible list, or status if already employed, the director shall make the necessary adjustment or take other appropriate action, including termination.

5.2(3) *Applicant files.* Applications accepted for processing and necessary related materials will be placed in the applicant files in the department and retained for no less than one year. Applications for classes which result in the hire of the applicant will be placed in the employee files in the department and retained for no less than the period of employment.

5.2(4) *Application for eligible lists.* Persons may apply to be on eligible lists as follows:

a. Promotional lists. Promotional applicants shall meet the minimum qualifications, but may be exempt from the initial examinations used for the purposes of ranking on eligible lists. Promotional applicants may be subject to keyboard tests, background checks, psychological tests, and other tests used for further screening. The following persons may apply to be on promotional eligible lists at any time:

(1) Permanent employees, including permanent employees of the board of regents and community-based corrections;

(2) Persons enrolled in work experience programs who have successfully completed at least 90 calendar days in the program; and

(3) Persons who have been formally enrolled in the department's intern development program for a period of at least 90 calendar days.

b. Nonpromotional lists. The following persons may apply to be on nonpromotional lists at any time:

(1) Persons laid off and eligible for recall;

(2) Judicial branch employees;

(3) Legislative branch employees;

(4) Probationary or provisional probationary employees;

(5) Intermittent or provisional intermittent employees;

(6) Seasonal, emergency, trainee, intern or other temporary employees, not on the promotional list, or volunteers (including persons enrolled in work experience programs who are not on the promotional list) following 60 calendar days service with the state;

(7) Nonpermanent employees of the board of regents and community-based corrections; and

(8) Former permanent employees who resigned from state employment in good standing may, within 60 calendar days following their termination date, make application to be included on nonpromotional lists for classes for which they were on promotional lists at the time of their termination.

5.2(5) *Application pending license or graduation.* An applicant who does not meet the minimum education or license requirements, but who is currently enrolled in an education program that will result in meeting such requirements, may be placed on the appropriate eligible list with a "pending graduation" or "pending license" status provided the applicant will meet or has a reasonable expectation of meeting, the requirements within the following eight months. If certified in the top six available scores, the applicant may be selected for employment, but may not be appointed until all qualification requirements are met.

5.2(6) *Disqualification or removal of applicants.* The director may refuse to place an applicant on a list of eligibles for an unlimited period, refuse to certify an applicant to a job class or a position, refuse to approve the appointment of a certified applicant, or remove an applicant from the list of eligibles for a class or a certificate for a position if it is found that the applicant:

a. Does not meet the minimum qualifications or special requirements for the job class or position as specified in the job class description, administrative rules, or law, or as documented through identification of essential functions.

b. Is physically or mentally incapable of performing the essential functions of the job classification or position and a reasonable accommodation cannot be provided.

c. Has knowingly misrepresented the facts when submitting information relative to an application, test, certification, appeal, or any other facet of the selection process.

d. Has used or attempted to use coercion, bribery or other illegal means to secure an advantage in the application, testing, appeal or selection process.

e. Has obtained examination information to which applicants are not entitled.

f. Has failed to submit the application within the designated time limits.

g. Was previously discharged from a position in state government.

h. Has been convicted of a crime that is shown to have a direct relationship to the duties of a job class or position.

i. Is proven to be an unrehabilitated substance abuser who would be unable to perform the duties of the job class or who would constitute a direct threat to state property or to the safety of others.

j. Is not a United States citizen and does not have a valid permit to work in the United States under regulations issued by the U.S. Immigration and Naturalization Service.

Applicants disqualified or removed under this subrule shall be notified in writing by the director within five workdays following removal. Applicants may informally request that the director reconsider their disqualification or removal by submitting additional written evidence of their qualifications or reasons why they should not be removed in accordance with rule 581—12.3(19A). Formal appeal of disqualification or removal shall be in accordance with 581—subrule 12.2(4).

5.2(7) *Qualifications.* Applicants must meet the qualifications for the class as well as any selective certification requirements associated with a particular class or position as indicated in the class description. The director shall determine whether or not an applicant meets such qualifications and requirements.

Applicants and employees may, as a condition of the job, be required to have a current license, certificate, or other evidence of eligibility or qualification. Employees who fail to meet and maintain this requirement shall be subject to discharge in accordance with rule 581—8.13(19A) or 581—subrule 11.2(4).

Any fees associated with obtaining or renewing a license, certificate, or other evidence of eligibility or qualification shall be the responsibility of the applicant or employee unless otherwise provided by statute.

581—5.3(19A) Examinations.

5.3(1) *Purpose of examinations.* The director may conduct examinations to determine the relative rank of qualified applicants on eligible lists or, in the case of keyboard tests, to determine if an applicant meets the minimum qualifications. Unless otherwise indicated, all references to examinations in this chapter shall apply only to positions covered by merit system provisions. Possession of a valid license, certificate, registration, or work permit required by the Iowa Code or the Iowa Administrative Code in order to practice a trade or profession may qualify as evidence of an applicant's basic skills. Where these basic skills constitute the primary requirement for job performance, the names of all applicants meeting the minimum qualifications may be placed on the appropriate eligible list without further examination.

5.3(2) *Types of examinations.* Examinations may include, but are not limited to, written, oral, physical, or keyboard tests, and may test for such factors as education, experience, aptitude, psychological traits, knowledge, character, physical fitness, or other standards related to job requirements.

5.3(3) *Background checks.* Background checks and investigations, including, but not limited to, checks of arrest and conviction records, fingerprint records, driving records, financial or credit records, and child or dependent adult abuse records, constitute an examination or test within the meaning of this subrule, Iowa Code chapter 19A and 161—subrule 8.1(1). Confidential documents provided to the director by other agencies in conjunction with the administration of this rule shall continue to be maintained in their confidential status. The director is subject to the same policies and penalties regarding the confidentiality of the documents as any employee of the agency providing the documents.

Background checks shall be conducted only after receiving approval from the director concerning the areas to be checked and the standards to be applied in evaluating the information gathered. Background checks are subject to the following limitations and requirements:

a. Arrest record information, unless otherwise required by law, shall not be considered in the selection of persons for employment unless expressly authorized by the director.

b. The appointing authority shall notify the director of each job class or position that requires applicants to undergo any type of background check. The notification shall document the clear business necessity for the background check and the job relatedness of each topic covered in the inquiry.

c. The director shall prescribe a statement that shall be presented by the appointing authority to each applicant that is to be investigated under this subrule. This statement shall inform the applicant that the applicant is subject to a background check as a condition of employment and the topics to be covered in the background check. It shall also inform the applicant that all information gathered will be treated as confidential within the meaning of Iowa Code section 22.7, but that all such information gathered shall be available to the applicant upon request through the agency authorized to release such information, unless otherwise specifically provided by law. The statement shall be signed and dated by the applicant and shall include authorization from the applicant for the appointing authority to conduct the background check as part of the application for employment and selection process and to share the information gathered with the director.

d. Information obtained from a background check is not necessarily a bar to an applicant's employment.

e. Appointing authorities shall send information periodically to the director on forms prescribed by the director. This information shall include the following:

(1) The total number of applicants for each job class who were eligible for a background check.

(2) A list of all applicants for whom background checks were conducted, by organizational unit, name, social security number, type of background check, and result (pass or fail).

(3) Documentation of specific business necessity and job relatedness when any inequitable rejection rate is identified by the director.

581—5.4(19A) Development and administration of examinations.

5.4(1) *Examination development.* The director shall oversee the development, purchase, and use of examination materials, forms, procedures, and instructions.

5.4(2) *Examination administration.* The director shall arrange for suitable locations and conditions to conduct examinations. Locations in various areas of the state and out of state may be used. The director may postpone, cancel, or reschedule the date of an examination.

a. Examination of persons with disabilities. Persons with disabilities may request specific examination accommodations. Reasonable accommodations will be granted in accordance with policies for accommodations established by the department. Persons in the certified disability program or any other formal waiver program established by the department may be exempt from examinations used for the purpose of ranking qualified applicants on eligible lists.

b. Special admittance. Requests for special admittance to an examination after the closing date for application shall be submitted in writing to the director. The request shall explain why the applicant seeks special admittance to the examination.

c. Retaking examinations. Applicants may not retake aptitude, psychological, video-based or other examinations for 60 calendar days following the last date the examination was taken except as provided for in rule 581—5.6(19A). Violation of the waiting period for an examination shall result in the current examination score being voided and an additional 60-calendar-day waiting period being imposed.

Keyboard examinations, such as typing, may be retaken at any time without a waiting period, if equipment is available.

The most recent examination score shall determine the applicant's rank on the corresponding eligible lists.

Applicants who are required to take examinations covered by the rules or procedures of other agencies are subject to applicable rules or procedures on retakes for such examinations of that agency.

5.4(3) *Examination materials.*

a. Examination materials, including working papers, test booklets, test answer sheets and test answer keys are not public records under Iowa Code chapter 22. All examination materials are the property of the department and shall not be released without the consent of the director.

b. Removing examination material. Any unauthorized person who removes examination material from an examination site, who participates in unauthorized distribution of examination materials, who is in unauthorized possession of examination material or who otherwise compromises the integrity of the examination process shall be subject to discipline, up to and including discharge if employed by the state, as well as prosecution.

581—5.5(19A) Scoring examinations. All applicants for positions covered by merit system provisions shall be given uniform treatment in all phases of the examination scoring process applicable to the job class and status of the applicant. Applicants may be required to obtain at least a minimum score in any or all parts of the examination process in order to receive a final score or to be allowed to participate in the remaining parts of an examination.

5.5(1) *Adjustment of errors.* Examination scoring errors that are called to the attention of the director will be corrected. A correction shall not, however, invalidate any certificate already issued or any appointment already made and shall not extend the life of the score.

5.5(2) *Points for veterans.* Veterans' points shall be applied to veterans as defined in Iowa Code section 35C.1. Eligible veterans shall have five points added to the score attained in examinations for appointment to jobs.

a. "Veteran" means a resident of this state who served in the armed forces of the United States at any time during the following dates and who was discharged under honorable conditions:

(1) World War I from April 6, 1917, through November 11, 1918.

(2) Occupation of Germany from November 12, 1918, through July 11, 1923.

(3) American expeditionary forces in Siberia from November 12, 1918, through April 30, 1920.

(4) Second Haitian suppression of insurrections from 1919 through 1920.

(5) Second Nicaragua campaign with marines or navy in Nicaragua or on combatant ships from 1926 through 1933.

(6) Yangtze service with navy and marines in Shanghai or in the Yangtze valley from 1926 through 1927 and 1930 through 1932.

(7) China service with navy and marines from 1937 through 1939.

(8) World War II from December 7, 1941, through December 31, 1946.

(9) Korean conflict from June 25, 1950, through January 31, 1955.

(10) Vietnam conflict from February 28, 1961, through May 7, 1975.

(11) Lebanon or Grenada service from August 24, 1982, through July 31, 1984.

(12) Panama service from December 20, 1989, through January 31, 1990.

(13) Persian Gulf conflict from August 2, 1990, through the date the President or the Congress of the United States declares a cessation of hostilities. However, if the United States Congress enacts a date different from August 2, 1990, as the beginning of the Persian Gulf conflict for purposes of determining whether a veteran is entitled to receive military benefits as a veteran of the Persian Gulf conflict, that date shall be substituted for August 2, 1990.

b. "Veteran" also includes the following:

(1) Former members of the reserve forces of the United States who served at least 20 years in the reserve forces after January 28, 1973, and who were discharged under honorable conditions. However, a member of the reserve forces of the United States who completed a minimum aggregate of 90 days of active federal service, other than training, and was discharged under honorable conditions or was retired under Title X of the United States Code shall be included as a veteran.

(2) Former members of the Iowa national guard who served at least 20 years in the Iowa national guard after January 28, 1973, and who were discharged under honorable conditions. However, a member of the Iowa national guard who was activated for federal duty, other than training, for a minimum aggregate of 90 days and was discharged under honorable conditions or was retired under Title X of the United States Code shall be included as a veteran.

(3) Former members of the active, oceangoing merchant marine who served during World War II at any time between December 7, 1941, and December 31, 1946, both dates inclusive, who were discharged under honorable conditions.

(4) Former members of the women's air force service pilots and other persons who have been conferred veteran status based on their civilian duties during World War II in accordance with federal Pub. L. No. 95-202, 38 U.S.C. Section 106.

c. Proof of eligibility for points must be provided by the applicant in the form of a certified photocopy of a DD214 Form (Armed Forces Report of Transfer or Discharge) or other official document containing dates of service or a listing of service medals and campaign badges.

d. Applicants who were awarded a Purple Heart, or who have a service-connected disability, or who are receiving disability compensation or pension under laws administered by the U.S. Veterans Administration may request to have a maximum of ten points added to examination scores. Proof of current disability dated within the last 24 months and updated every 24 months after initial application must be submitted for continued eligibility.

581—5.6(19A) Review of written examination questions. Applicants may request to review their incorrectly answered questions on department written examinations except that aptitude, psychological, and video-based examinations are not subject to review. An applicant who reviews written examination questions may not retake that examination or an examination with the same or similar content for 60 calendar days following the review and then only if the class is open for recruitment. Violation of this waiting period shall result in the current examination score being voided and an additional 60-calendar-day waiting period being imposed.

These rules are intended to implement Iowa Code section 19A.9.

[Filed 5/1/69; amended 5/13/70, 9/17/70, 4/14/71]
[Filed 6/28/76, Notice 5/17/76—published 7/12/76, effective 8/2/76]
[Filed without notice 7/22/76—published 8/9/76, effective 9/13/76]
[Filed emergency 9/7/76—published 9/22/76, effective 9/7/76]
[Filed 10/13/76, Notice 9/8/76—published 11/3/76, effective 12/8/76]
[Filed 4/11/79, Notice 3/7/79—published 5/2/79, effective 6/6/79]
[Filed 1/30/81, Notice 11/26/80—published 2/18/81, effective 3/25/81]
[Filed 12/3/82, Notice 10/13/82—published 12/22/82, effective 1/26/83*]
[Filed 3/22/85, Notice 10/24/84—published 4/10/85, effective 5/15/85]
[Filed 4/4/86, Notice 1/15/86—published 4/23/86, effective 5/28/86]
[Filed emergency 7/1/86—published 7/30/86, effective 7/1/86]**
[Filed 10/17/86, Notice 8/13/86—published 11/5/86, effective 12/10/86]
[Filed 7/24/87, Notice 6/17/87—published 8/12/87, effective 9/16/87]
[Filed 2/18/88, Notice 1/13/88—published 3/9/88, effective 4/13/88]
[Filed 9/2/88, Notice 6/29/88—published 9/21/88, effective 10/26/88]

*Effective date of amendments to 5.11 and 54.12(1/26/83) delayed 70 days by the Administrative Rules Review Committee. Delay lifted by Committee on 2/8/83. See details following chapter analysis.
**See IAB Personnel Department

[Filed 10/27/88, Notice 9/21/88—published 11/16/88, effective 12/21/88]
[Filed 7/7/89, Notice 5/17/89—published 7/26/89, effective 9/1/89]
[Filed 9/29/89, Notice 8/23/89—published 10/18/89, effective 11/24/89]
[Filed 2/1/90, Notice 12/13/89—published 2/21/90, effective 3/30/90]
[Filed 5/25/90, Notice 4/18/90—published 6/13/90, effective 7/20/90]
[Filed 2/1/91, Notice 12/12/90—published 2/20/91, effective 3/29/91]
[Filed 5/23/91, Notice 4/17/91—published 6/12/91, effective 7/19/91†]
[Filed emergency 9/13/91—published 10/2/91, effective 9/13/91]
[Filed 11/20/91, Notice 8/21/91—published 12/11/91, effective 1/17/92]
[Filed 11/21/91, Notice 10/2/91—published 12/11/91, effective 1/17/92]
[Filed 3/26/93, Notice 2/17/93—published 4/14/93, effective 5/19/93]
[Filed 12/12/96, Notice 10/23/96—published 1/15/97, effective 2/19/97]
[Filed 8/12/99, Notice 6/16/99—published 9/8/99, effective 10/13/99]

†Effective date (7/19/91) of subrule 5.3(3) delayed 70 days by the Administrative Rules Review Committee at its meeting held 7/12/91.

CHAPTER 8
APPOINTMENTS
[Prior to 11/5/86, Merit Employment Department[570]]

581—8.1(19A) Filling vacancies. Unless otherwise provided for in these rules or the Iowa Code, the filling of all vacancies in the state personnel system shall be subject to the provisions of these rules. No vacant position in the executive branch shall be filled until the position has been classified in accordance with Iowa Code chapter 19A and these rules.

An employee who has participated in the phased retirement program shall not be eligible for permanent employment for hours in excess of those worked at the time of retirement. An employee who has participated in the early retirement or early termination program shall not be eligible for any state employment.

A person who has served as a commissioner or board member of a regulatory agency shall not be eligible for employment with that agency until two years after termination of the appointment.

581—8.2(19A) Probationary appointment. Probationary appointments may be made only to authorized and established positions unless these rules provide otherwise. Appointments to positions covered by merit system provisions shall be made in accordance with 581—Chapter 7 when applicable.

581—8.3(19A) Project appointment. Rescinded IAB 1/13/99, effective 2/17/99.

581—8.4(19A) Provisional appointment. If the director is unable to certify the names of at least six available applicants from a nonpromotional eligible list for a position covered by merit system provisions, an appointing authority may provisionally appoint a person who meets the minimum qualifications for the class to fill the position pending the person's examination, certification and appointment from a nonpromotional eligible list.

No provisional probationary appointment shall be continued for more than 30 calendar days after an adequate eligible list has been established, nor for more than a total of 180 calendar days after the date of original appointment. No provisional intermittent appointment shall be continued for more than 30 calendar days after an adequate eligible list has been established, nor for more than a total of 120 calendar days after the date of appointment.

Successive provisional appointments shall not be permitted. An employee with provisional status shall not be eligible for promotion, demotion, transfer, or reinstatement to any position nor have reduction in force or appeal rights, but provisional probationary employees shall be eligible for vacation and sick leave and other employee benefits.

An employee shall receive credit for time spent in provisional status toward the period of probationary status.

581—8.5(19A) Intermittent appointment. Persons may be appointed with intermittent status to any class without regard to merit system provisions. They may be paid at any rate of pay within the range for the class to which appointed.

Intermittent appointments may be made to established intermittent positions or to permanent positions, or on an overlap basis to unauthorized positions, and may be made to any class and at any rate of pay within the range for the class to which appointed.

An intermittent appointment shall not exceed 700 work hours in a fiscal year. Hours worked in noncontract classes during the period provided for seasonal appointment in rule 581—8.11(19A) shall not accumulate toward this 700-hour maximum.

An intermittent employee may be given a probationary appointment if appointed in accordance with 581—subrule 7.3(2).

An intermittent employee shall have no rights to appeal, transfer, demotion, promotion, reinstatement, or other rights of position, nor be entitled to vacation, sick leave, or other benefits.

A person appointed with intermittent status to a classification covered by a collective bargaining agreement shall only be given another temporary type of appointment to the extent that the total number of hours worked in all temporary appointments in a fiscal year does not exceed 700 hours. Prior to accumulating 700 hours worked, the employee shall either be given a probationary appointment, given a temporary appointment in a noncontract class, or terminated.

581—8.6(19A) Reinstatement. A permanent employee who left employment for other than just cause may be reinstated with permanent or probationary status to any class for which qualified at the discretion of an appointing authority. Reinstatement shall not require certification from a list of eligibles. The period of reinstatement eligibility shall be equal to the period of continuous state employment immediately prior to the employee's separation, to a maximum of two years. Current employees and employees who have retired from state government shall not be eligible for reinstatement. Retired former employees may, however, apply for employment in accordance with 581—paragraph 5.2(4)*"b."*

A permanent employee who demotes may at any time be reinstated to a position in the class occupied prior to the demotion at the discretion of the appointing authority. Reinstatement shall not require certification from a list of eligibles.

Former employees who are reinstated shall accrue vacation at the same rate as at the time they separated from state employment, and the employee's previous vacation anniversary date minus the period of separation shall be restored. This paragraph shall be effective retroactive to January 1, 1995.

581—8.7(19A) Emergency appointment. The director may authorize appointing authorities to make emergency appointments to positions. Emergency appointments may be made to any class and at any rate of pay within the range for the class to which appointed. Emergency appointments shall not exceed 350 hours for any one person in any one fiscal year.

Persons may be appointed with emergency status without regard to merit system provisions and shall have no rights to appeal, transfer, promotion, demotion, merit pay increases, reinstatement, or other rights of position, nor be entitled to vacation, sick leave, or other benefits.

A person appointed with emergency status to a classification covered by a collective bargaining agreement shall not work in excess of 350 hours in that status in such a class or classes, nor shall that person accumulate more than 700 hours worked in any combination of temporary statuses in any agency or any combination of agencies during a fiscal year.

581—8.8(19A) Appointments to work-test classes. Persons appointed to positions in work-test classes as provided for in Iowa Code section 19A.9, subsection 23, may be given either probationary, intermittent, emergency, or trainee status, according to provisions in these rules, and shall be subject to rules and acquire benefits according to their status. Employees who have attained permanent status and are subsequently demoted, transferred, or promoted to another permanent position in a work-test class shall retain their permanent status. Persons appointed to positions covered by merit system provisions shall be required to meet the minimum qualifications for the class, but will not require examination or certification.

581—8.9(19A) Trainee appointment. The director may authorize an appointing authority to make a trainee appointment to a permanent position covered by merit system provisions of a person who does not meet the minimum qualifications for the class. The trainee shall be a bona fide student in an accredited educational institution, or enrolled in an agency-affiliated training program approved by the director, and have successfully completed at least one semester, or its equivalent, of instruction. Appointees must be at least 14 years of age and possess work permits if required. Appointment may be continued up to three semesters or its equivalent, in a two-year period. Employees with trainee status shall have no rights of appeal, transfer, demotion, promotion, reinstatement, or other rights of position; nor be entitled to vacation, sick leave, or other benefits.

581—8.10(19A) Internship appointment. The director may authorize an appointing authority to make an internship appointment to an established position, or if funds are available, to an unauthorized position.

8.10(1) Internship appointments to the class of administrative intern may be made for a period not to exceed one year unless otherwise authorized by the director. Internship appointments to the class of transportation engineer intern shall expire upon attainment of an undergraduate degree.

8.10(2) Employees with internship status shall have no rights of appeal, transfer, demotion, promotion, reinstatement, or other rights of position, nor be entitled to vacation, sick leave, or other benefits of state employment, nor shall credit be given for future vacation accrual purposes.

8.10(3) Successful completion of an internship appointment of at least 90 calendar days shall authorize the appointee to be certified from a promotional list for any job class for which the appointee has submitted an application and qualifies. Only persons formally enrolled in the department's intern development program are eligible to be on promotional lists. Successful completion shall be as determined by the director at the time of enrollment. An intern's name may remain on the promotional list for up to two years. If an appointment has not been made by the end of the two-year period, the name will be removed from the list. The intern may then reapply through the standard nonpromotional process. After initial selection from a promotional certificate, the intern's name shall be removed from all promotional lists until permanent status has been attained.

581—8.11(19A) Seasonal appointment. The director may authorize appointing authorities to make seasonal appointments to positions. Seasonal appointments may be made to any class and at any rate of pay within the range for the class to which appointed. Seasonal appointments may, however, be made only during the seasonal period approved by the director for the agency requesting to make the appointment, and must be concluded by the end of that period. To be eligible to make seasonal appointments, the appointing authority must first submit a proposed seasonal period to the director for approval. Such period shall not exceed six months in a fiscal year; however, the appointment may start as early as the beginning of the pay period that includes the first day of the seasonal period and may end as late as the last day of the pay period that includes the last day of the seasonal period.

Persons may be appointed with seasonal status without regard to merit system provisions and shall have no rights of appeal, transfer, promotion, demotion, reinstatement, or other rights of position, nor be entitled to vacation, sick leave, or other benefits.

A person appointed with seasonal status to a classification covered by a collective bargaining agreement shall not work in excess of 700 hours in that status in such a class or classes, nor shall that person accumulate more than 700 hours worked in any combination of temporary statuses in any agency or any combination of agencies during a fiscal year.

581—8.12(19A) Overlap appointment. When it is considered necessary to fill a position on an overlap basis pending the separation of an employee, the appointment of a new employee may be made in accordance with these rules for a period not to exceed 30 calendar days. An overlap appointment must be in the same class as the authorized position being overlapped, unless otherwise approved by the director. Any overlap appointment for a longer period must first be approved by the director.

581—8.13(19A) Rescinding appointments. If, after being appointed, it is found that an employee should have been disqualified or removed as provided for in 581—subrules 5.2(6) or 5.2(7) or rule 581—6.5(19A) or 7.7(19A), the director may rescind the appointment. An employee with permanent status may appeal the director's decision to the public employment relations board. The appeal must be filed within 30 calendar days after the date the director's decision was issued. Decisions by the public employment relations board constitute final agency action.

These rules are intended to implement Iowa Code section 19A.9.

[Filed 7/14/69; amended 11/11/70, 3/9/71, 1/17/72, 3/28/74, 7/26/74, 5/13/75; amended IAC Supp. 7/28/75—published 9/22/75, effective 10/27/75]
[Filed 9/16/76, Notice 8/9/76—published 10/6/76, effective 11/10/76]
[Filed 8/2/78, Notice 6/28/78—published 8/23/78, effective 9/27/78]
[Filed 10/26/79, Notice 10/19/79—published 11/14/79, effective 12/20/79]
[Filed 3/14/80, Notice 2/6/80—published 4/2/80, effective 5/7/80]
[Filed 11/7/80, Notice 9/3/80—published 11/26/80, effective 12/31/80]
[Filed 4/23/81, Notice 3/4/81—published 5/13/81, effective 6/17/81]
[Filed 8/28/81, Notice 7/22/81—published 9/16/81, effective 10/21/81]
[Filed 12/18/81, Notice 10/14/81—published 1/6/82, effective 2/10/82]
[Filed 12/3/82, Notice 10/13/82—published 12/22/82, effective 1/26/83*]
[Filed 3/22/85, Notice 10/24/84—published 4/10/85, effective 5/15/85]
[Filed 4/4/86, Notice 1/15/86—published 4/23/86, effective 5/28/86]
[Filed emergency 6/13/86—published 7/2/86, effective 6/13/86]
[Filed 10/17/86, Notice 8/13/86—published 11/5/86, effective 12/10/86]
[Filed 7/24/87, Notice 6/17/87—published 8/12/87, effective 9/16/87]
[Filed 2/18/88, Notice 1/13/88—published 3/9/88, effective 4/13/88]
[Filed 2/1/90, Notice 12/13/89—published 2/21/90, effective 3/30/90]
[Filed 9/28/90, Notice 7/11/90—published 10/17/90, effective 11/23/90]
[Filed 2/1/91, Notice 12/12/90—published 2/20/91, effective 3/29/91]
[Filed 3/26/93, Notice 2/17/93—published 4/14/93, effective 5/19/93]
[Filed emergency 7/18/95—published 8/16/95, effective 7/18/95]
[Filed 12/12/96, Notice 10/23/96—published 1/15/97, effective 2/19/97]
[Filed 4/3/98, Notice 2/25/98—published 4/22/98, effective 5/27/98]
[Filed 12/23/98, Notice 11/4/98—published 1/13/99, effective 2/17/99]
[Filed 8/12/99, Notice 6/16/99—published 9/8/99, effective 10/13/99]

*Effective date of amendments to 8.3 and 8.7 delayed 70 days by Administrative Rules Review Committee. Delay lifted by Committee on 2/8/83. See details following chapter analysis.
**Rule 8.12 inadvertently omitted 8/12/87 and added 9/9/87.

CHAPTER 9
PROBATIONARY PERIOD
[Prior to 11/5/86, Merit Employment Department[570]]

581—9.1(19A) Duration. All original full-time or part-time appointments to permanent positions shall require a six-month period of probationary status. Employees with probationary status shall not be eligible for promotional application or certification, reinstatement following separation, or other rights to positions unless provided for in this chapter, nor have reduction in force, recall, or appeal rights. If, during the period of probationary status in a position covered by merit system provisions, the conditions change under which the employee was originally certified, the employee must be eligible for certification in accordance with 581—subrule 7.3(2).

Prior to the expiration of the six-month period of probationary status, the appointing authority must notify the employee, with a copy to the director, if the employee is to be terminated.

A six-month period of probationary status may, at the discretion of the appointing authority with notice to the employee and the director, be required upon reinstatement, and all rules regarding probationary status shall apply during that period.

The provisions of this chapter shall apply to all executive branch employees, except employees of the board of regents, unless collective bargaining agreements provide otherwise.

581—9.2(19A) Disciplinary actions.

9.2(1) In addition to less severe progressive discipline measures, the appointing authority may demote, suspend, reduce pay within the same pay grade, or discharge an employee during the period of probationary status without right of appeal. The appointing authority shall notify the employee in writing of the effective date of the action, and in the case of a suspension or reduction in pay, the duration of the action. In no case shall suspension extend beyond 30 calendar days, nor beyond the end of the probationary period. A copy of the notice shall be sent to the director by the appointing authority.

9.2(2) Disciplinary demotion during the period of probationary status to a position covered by merit system provisions shall require eligibility for appointment from a list of eligibles in accordance with 581—subrule 7.3(2). However, a probationary employee may be disciplinarily demoted to a position covered by merit system provisions in a work-test class as long as the employee meets the minimum qualifications for the class. The total required period of probationary status shall include the time spent in the higher class. The pay shall be set in accordance with 581—subrule 4.6(7).

581—9.3(19A) Voluntary demotion during the period of probationary status. Voluntary demotion during the period of probationary status to a position covered by merit system provisions shall require eligibility for appointment from a list of eligibles in accordance with 581—subrule 7.3(2). However, a probationary employee may voluntarily demote to a position covered by merit system provisions in a work-test class as long as the employee meets the minimum qualifications for the class. The total required period of probationary status shall include the time spent in the higher class. The pay shall be set in accordance with 581—subrule 4.6(7).

581—9.4(19A) Promotion during the period of probationary status. A probationary employee who is promoted during the period of probationary status to a position covered by merit system provisions shall be certified in accordance with 581—subrule 7.3(2). However, a probationary employee may be promoted to a position covered by merit system provisions in a work-test class as long as the employee meets the minimum qualifications required for the class. The total required probationary period shall include the probationary service in the class from which promoted. The rate of pay shall be set in accordance with 581—subrule 4.6(6).

581—9.5(19A) Transfer during the period of probationary status. A probationary employee who is transferred during the period of probationary status by the appointing authority to a position covered by merit system provisions must be eligible for certification in accordance with 581—subrule 7.3(2) unless the transfer is to a position in the same class, in the same location, and under the same conditions for which the employee was originally certified. However, a probationary employee may be transferred to a position covered by merit system provisions in a work-test class as long as the employee meets the minimum qualifications required for the class. The total required period of probationary status shall include the probationary time spent in the class from which transferred. The rate of pay shall be set in accordance with 581—subrule 4.6(8).

581—9.6(19A) Reclassification during the period of probationary status. An employee who is reclassified during the period of probationary status must be eligible for certification in accordance with 581—subrule 7.3(2) if the new position is covered by merit system provisions. However, an employee who is reclassified to a work-test class covered by merit system provisions need only meet the minimum qualifications for the class. The total required period of probationary status shall include the probationary time spent in the previous class. The rate of pay shall be in accordance with 581—subrule 4.6(9).

581—9.7(19A) Leave without pay during the period of probationary status. A probationary employee may be granted leave without pay at the appointing authority's discretion in accordance with these rules. When a probationary employee is granted leave without pay, the employee's probationary period shall not be extended by the amount of leave granted unless the leave is for education or training.

581—9.8(19A) Vacation and sick leave during the period of probationary status. Probationary employees shall accrue and be granted vacation and sick leave in accordance with the provisions of these rules.

581—9.9(19A) Probationary period for promoted permanent employees. This rule shall only apply to promotion within an appointing authority's department and to positions covered by merit system provisions.

An employee may be required to serve a six-month probationary period in the class to which promoted before the promotion becomes permanent.

At any time during the promotional probationary period the appointing authority may return the employee to the formerly held class. Return under this probationary period rule shall not be considered a demotion and there shall be no right to an appeal. The former salary and pay increase eligibility date shall be restored with credit allowed for the time spent in the higher class.

These rules are intended to implement Iowa Code section 19A.9.

[Filed July 14, 1969; amended November 5, 1970, April 14, 1971, July 26, 1974]
[Filed 2/28/80, Notice 12/26/79—published 3/19/80, effective 4/23/80]
[Filed 1/2/81, Notice 10/1/80—published 1/21/81, effective 2/25/81]
[Filed 12/3/82, Notice 10/13/82—published 12/22/82, effective 1/26/83*]
[Filed 3/22/85, Notice 10/24/84—published 4/10/85, effective 5/15/85]
[Filed 12/3/85, Notice 10/9/85—published 12/18/85, effective 1/22/86]
[Filed 10/17/86, Notice 8/13/86—published 11/5/86, effective 12/10/86]
[Filed 9/29/89, Notice 8/23/89—published 10/18/89, effective 11/24/89]
[Filed 2/1/90, Notice 12/13/89—published 2/21/90, effective 3/30/90]
[Filed 2/1/91, Notice 12/12/90—published 2/20/91, effective 3/29/91]
[Filed 12/12/96, Notice 10/23/96—published 1/15/97, effective 2/19/97]
[Filed 8/12/99, Notice 6/16/99—published 9/8/99, effective 10/13/99]

*Effective date of 9.1, 9.3, 9.4 and 9.5 delayed 70 days by Administrative Rules Review Committee. Delay lifted by Committee on 2/8/83. See details following chapter analysis.

CHAPTER 12
GRIEVANCES AND APPEALS

[Prior to IAB 3/14/84, subject appeared in Chs 12 and 15]
[Prior to 11/5/86, Merit Employment Department[570]]
[Prior to 1986, see Executive Council[420]Ch 10]

581—12.1(19A) Grievances. The grievance procedure is an informal process. It is not a contested case. All employees shall have the right to file grievances. The right to file a grievance and the grievance procedure provided for in these rules shall be made known and available to employees throughout the agency by the appointing authority through well-publicized means. Employees covered by a collective bargaining agreement may use this grievance procedure for issues that are not covered by their respective collective bargaining agreements.

Grievances shall state the issues involved, the relief sought, the date the incident or violation took place and any rules involved, and shall be filed on forms prescribed by the director. Grievances involving suspension, reduction in pay within the same pay grade, disciplinary demotion, or discharge shall be filed as appeals in accordance with subrule 12.2(6).

Employees covered by collective bargaining agreements shall be governed by the terms of their contract grievance procedures for those provisions contained in the contract. Otherwise, the provisions of this rule shall apply.

12.1(1) *Grievance procedure.*

a. Step 1. The grievant shall initiate the grievance by submitting it in writing to the immediate supervisor, or to a supervisor designated by the appointing authority, within 14 calendar days following the day the grievant first became aware of, or should have through the exercise of reasonable diligence become aware of, the grievance issue. The immediate supervisor shall, within seven calendar days after the day the grievance is received, attempt to resolve the grievance within the bounds of these rules and give a decision in writing to the grievant with a copy to the director.

b. Step 2. If the grievant is not satisfied with the decision obtained at the first step, the grievant may, within seven calendar days after the day the written decision at the first step is received or should have been received, file the grievance in writing with the appointing authority. The appointing authority shall, within seven calendar days after the day the grievance is received, attempt to resolve the grievance within the bounds of these rules, by affirming, modifying, or reversing the decision made at the first step, or otherwise grant appropriate relief. The decision shall be given to the grievant in writing with a copy to the director.

c. Step 3. If the grievant is not satisfied with the decision obtained at the second step, the grievant may, within 7 calendar days after the day the written decision at the second step was received, or should have been received, file the grievance in writing with the director. The director shall, within 30 calendar days after the day the grievance is received, attempt to resolve the grievance and send a decision in writing to the grievant with a copy to the appointing authority. The director may affirm, modify, or reverse the decision made at the second step or otherwise grant appropriate relief. If the relief sought by the grievant is not granted, the director's response shall inform the grievant of the appeal rights in 581—subrule 12.2(5).

d. If the grievant is not satisfied with the decision obtained from the third step the grievant may file an appeal in accordance with subrule 12.2(5).

12.1(2) *Exceptions to time limits.*

a. If the grievant fails to proceed to the next available step in the grievance procedure within the prescribed time limits, the grievant shall have waived any right to proceed further in the grievance procedure and the grievance shall be considered settled.

b. If any management representative fails to comply with the prescribed time limits at any step in the grievance procedure, the grievant may proceed to the next available step.

c. The maximum time periods at any of the three steps in the grievance procedure may be extended when mutually agreed to in writing by both parties.

12.1(3) *Group grievances.* When the appointing authority or the director determines that two or more grievances or grievants address the same or similar issues, they shall be processed and decided as a group grievance.

12.1(4) *Grievance meetings.*

a. When it is determined by a designated management representative or the director that a meeting with the grievant will be held, all reasonable attempts will be made to hold the meeting during the grievant's regularly scheduled hours of work.

b. The grievant may be represented at a grievance meeting by an employee of the grievant's choosing except where that would constitute a conflict of interest. A grievant who wishes to be represented and whose class is covered by a collective bargaining agreement may only be represented by an appointed or elected union representative from the same employee organization as the grievant. A grievant who wishes to be represented and whose class is not covered by a collective bargaining agreement may only be represented by an employee with the same bargaining status as the grievant.

c. The grievant, an employee who is the grievant's representative, and employees authorized to attend the grievance meeting by the appointing authority or the director shall be in paid status for that time spent at and traveling to and from the grievance meeting during their regularly scheduled hours of work. In addition, employees shall, if eligible for overtime compensation, be in paid status for that time spent at and traveling to and from the grievance meeting outside of their regularly scheduled hours of work.

d. The appointing authority shall not authorize mileage, or the use of a state vehicle for employees to attend or participate in a grievance meeting, except for those employees who are required to attend or participate in the meeting by the appointing authority or the director. In the case of group grievances, only one of the grievants shall be in paid status.

12.1(5) *Bypassing steps for discrimination grievances.* A grievance step may be bypassed by the grievant when the grievance alleges discrimination and the respondent at the step is the person against whom the grievance has been filed.

581—12.2(19A) Appeals.

12.2(1) *Appeal of position classification decisions.*

a. Appeal of a position classification decision shall be in accordance with rule 581—3.5(19A) and the contested case provisions of Iowa Code chapter 17A.

b. The appellant (including all appellants in the case of a group hearing), an employee who is the appellant's representative, and employees directed by the appointing authority to attend the classification appeal hearing by the appointing authority or the director shall be in paid status for the time spent at and traveling to and from the hearing during their regularly scheduled hours of work. In addition, only employees directed by management to attend the hearing shall, if eligible for overtime compensation, be in paid status for the time spent at and traveling to and from the hearing outside of their regularly scheduled hours of work.

c. The appointing authority shall not authorize mileage or the use of a state vehicle for employees to attend or participate in a classification appeal hearing, except for those employees who are directed to attend the hearing by the appointing authority or the director.

d. A permanent employee whose position has been reclassified downward and who alleges that the position classification process has been used to circumvent a reduction in force as provided for in rule 581—11.3(19A) may appeal in writing to the director. Right of appeal shall expire unless filed with the director within 14 calendar days following the date on the final position classification notice or, in the event of a classification appeal hearing, the classification appeal committee decision notice. If the director finds for the appellant, the appointing authority shall either submit a reduction in force plan or reassign duties to the appellant sufficient to retain the appellant's prior position classification.

12.2(2) *Appeal of disqualification.* Rescinded IAB 2/21/90, effective 3/30/90.

12.2(3) *Appeal of examination rating.* Following examination, an applicant may file a written appeal to the employment appeal board in the department of inspections and appeals for a review of the rating received on the examination for the sole purpose of assuring that uniform rating procedures were applied consistently and fairly. Right of appeal shall expire unless filed with the board within 30 calendar days following the notice of the examination results.

A rating on an examination may be corrected if it is found by the employment appeal board that a substantial error has been made by the department. The correction of a rating shall not, however, affect any certifications or appointments already made.

12.2(4) *Appeal of disqualification, restriction, or removal from eligible lists.* An applicant who has been disqualified or whose name has been restricted or removed from an eligible list in accordance with rule 581—5.2(19A) or 581—6.5(19A), or who has been restricted from certification in accordance with rule 581—7.7(19A) may file a written appeal to the employment appeal board in the department of inspections and appeals for a review of that action. The written appeal must be filed with the board within 30 calendar days following the notice of disqualification, removal from the eligible list, or restriction from certification. The burden of proof to establish eligibility shall rest with the appellant.

When an appeal is generated as the result of an action initiated by the department, the department shall be responsible for representation. When an appeal is generated as the result of an action initiated by an appointing authority through the department, the appointing authority shall pay the costs of the appeal assessed to the department and shall participate in representation as requested by the department.

If the applicant's name is restored to an eligible list, it shall not affect any certifications or appointments already made.

12.2(5) *Appeal of grievance decisions.* An employee who has alleged a violation of Iowa Code chapter 19A or the rules adopted to implement chapter 19A may, within 30 calendar days after the date the director's response at the third step of the grievance procedure was issued or should have been issued, file an appeal with the public employment relations board. A nontemporary noncontract employee covered by merit system provisions who is suspended, reduced in pay within the same pay grade, disciplinarily demoted, or discharged, except during the employee's period of probationary status may, if not satisfied with the decision of the director, request an appeal hearing before the public employment relations board within 30 calendar days after the date the director's decision was issued or should have been issued. However, when the grievance concerns allegations of discrimination within the meaning of Iowa Code chapter 216, the Iowa civil rights commission procedures shall be the exclusive remedy for appeal and shall, in such instances, constitute final agency action. In all other instances, decisions by the public employment relations board constitute final agency action.

12.2(6) *Appeal of disciplinary actions.* Any nontemporary, noncontract employee covered by merit system provisions who is suspended, reduced in pay within the same pay grade, disciplinarily demoted, or discharged, except during the employee's period of probationary status, shall bypass steps one and two of the grievance procedure provided for in rule 581—12.1(19A) and may file an appeal in writing to the director for a review of the action within 7 calendar days after the effective date of the action. The appeal shall be on the forms prescribed by the director. The director shall affirm, modify or reverse the action and shall give a written decision to the employee within 30 calendar days after the receipt of the appeal. The time may be extended by mutual agreement of the parties. If not satisfied with the decision of the director, the employee may request an appeal hearing before the public employment relations board as provided in 581—subrule 12.2(5).

12.2(7) *Appeal of reduction in force.* An employee who is to be or has been laid off or who has changed classes in lieu of layoff, and who alleges that the reduction in force was used to circumvent the rights of appeal provided for in subrule 12.2(6) or subrule 12.2(1), paragraph *"a"* or *"d,"* may file an appeal with the director within 30 calendar days following receipt of the notice of reduction in force to the employee from the appointing authority.

12.2(8) *Remedies.* All remedies provided in rule 581—12.2(19A) must be exhausted pursuant to Iowa Code section 17A.19, subsection 1, prior to petition for judicial review.

581—12.3(19A) Informal settlement. The director or an appellant may request that an informal conference be held to determine if a dispute can be resolved in a manner agreeable to all parties prior to a contested case hearing. If the director and the appellant agree to negotiate a settlement, the various points of the proposed settlement shall be included in a written statement of facts. Negotiations for a settlement shall be completed at least five workdays prior to the date of the contested case hearing, unless additional time is agreed to by the director, the appellant and the public employment relations board, the department of inspections and appeals, or the classification appeal committee, as applicable. The settlement shall be binding when approved and signed by both the director and the appellant.

These rules are intended to implement Iowa Code section 19A.9.

[Filed 9/17/70, amended 4/4/71]◊
[Filed 7/14/79, amended 9/17/70, 11/28/73]
[Filed 9/16/76, Notice 8/9/76—published 10/6/76, effective 11/10/76]◊
[Filed 3/22/77, Notice 1/12/77—published 4/20/77, effective 5/25/77]
[Filed 8/17/77, Notice 7/13/77—published 9/7/77, effective 10/12/77]◊
[Filed 8/30/79, Notice 5/30/79—published 9/19/79, effective 10/24/79]◊
[Filed 2/13/81, Notice 11/26/80—published 3/4/81, effective 4/8/81]◊
[Filed emergency 4/9/82—published 4/28/82, effective 4/9/82]◊
[Filed 6/16/82, Notice 4/28/82—published 7/7/82, effective 8/11/82]◊
[Filed 12/3/82, Notice 10/13/82—published 12/22/82, effective 1/26/83*]
[Filed emergency 3/28/83—published 4/13/83, effective 3/28/83]
[Filed 2/24/84, Notice 1/4/84—published 3/14/84, effective 4/18/84]
[Filed 3/22/85, Notice 10/24/84—published 4/10/85, effective 5/15/85]
[Filed 7/26/85, Notice 5/22/85—published 8/14/85, effective 9/18/85]
[Filed 12/3/85, Notice 10/9/85—published 12/18/85, effective 1/22/86]
[Filed emergency 7/1/86—published 7/30/86, effective 7/1/86]**
[Filed 10/17/86, Notice 8/13/86—published 11/5/86, effective 12/10/86]
[Filed emergency 11/7/86—published 12/3/86, effective 12/10/86]
[Filed 7/24/87, Notice 6/17/87—published 8/12/87, effective 9/16/87]
[Filed 2/18/88, Notice 1/13/88—published 3/9/88, effective 4/13/88]
[Filed 4/29/88, Notice 3/9/88—published 5/18/88, effective 7/1/88]
[Filed emergency 6/24/88—published 7/13/88, effective 7/1/88]
[Filed 9/2/88, Notice 6/29/88—published 9/21/88, effective 10/26/88]
[Filed 10/27/88, Notice 9/21/88—published 11/16/88, effective 12/21/88]
[Filed 7/7/89, Notice 5/17/89—published 7/26/89, effective 9/1/89]
[Filed 9/29/89, Notice 8/23/89—published 10/18/89, effective 11/24/89]
[Filed 2/1/90, Notice 12/13/89—published 2/21/90,effective 3/30/90]
[Filed 5/25/90, Notice 4/18/90—published 6/13/90, effective 7/20/90]
[Filed 9/28/90, Notice 7/11/90—published 10/17/90,effective 11/23/90]
[Filed 2/1/91, Notice 12/12/90—published 2/20/91, effective 3/29/91]
[Filed 5/23/91, Notice 4/17/91—published 6/12/91, effective 7/19/91]
[Filed 11/20/91, Notice 8/21/91—published 12/11/91, effective 1/17/92]
[Filed 12/12/96, Notice 10/23/96—published 1/15/97, effective 2/19/97]
[Filed 8/12/99, Notice 6/16/99—published 9/8/99, effective 10/13/99]

◊History relating also to "Grievances and Complaints", Ch 15, prior to IAB 3/14/84.
*Effective date of amendments to 12.4(19A) delayed 70 days by Administrative Rules Review Committee. Delay lifted by Committee on 2/8/83. See details following chapter analysis.
**See IAB Personnel Department

CHAPTER 13
PERFORMANCE REVIEW
[Prior to 11/5/86, Merit Employment Department[570]]

581—13.1(19A) System established. The director shall establish, administer and maintain a uniform system of performance planning and review to be applied to all employees in the executive branch of state government, excluding board of regents employees, and shall prescribe forms and procedures for its use. Appointing authorities shall determine and assign the job duties to be performed by employees.

581—13.2(19A) Minimum requirements.

13.2(1) *Performance plan.* The performance plan shall be based on the responsibilities assigned during the rating period and shall include the standards or expectations required for performance to be considered competent or as meeting job expectations. The performance plan shall be given to and discussed with the employee. Significant changes in responsibilities, standards or expectations that occur during the rating period shall be included in the performance plan, and a revised copy given to and discussed with the employee.

13.2(2) *Performance evaluation.* A performance evaluation shall be prepared for each employee at least every 12 months. Additional evaluations may be prepared at the discretion of the supervisor. Ratings on the evaluation form may be accompanied by descriptive comments supporting the ratings. The evaluation may also include job-related comments concerning areas of strength, areas for improvement, and training/development plans. The supervisor or team shall discuss the evaluation with the employee and the employee shall be given the opportunity to attach written comments. Periods of service during educational leave required by the appointing authority, or military leave, shall be considered competent (3.00) or as meeting job expectations.

Exit performance reviews shall be completed by the former supervisor on or before the last day before the movement of an employee to employment in another section, bureau, division or agency of state government. This review shall be for the period between the previous review up to the movement to the other position. A copy shall be forwarded to the new supervisor of the employee.

581—13.3(19A) Copies of records. The employee shall receive a copy of each performance plan and review. The originals shall be retained by the employee's agency in accordance with the policies of the department. The performance review and attachments are confidential records within the meaning of Iowa Code section 22.7, subsection 11.

These rules are intended to implement Iowa Code section 19A.9.

[Filed June 9, 1970]
[Filed 4/27/77, Notice 3/23/77—published 5/18/77, effective 6/22/77]
[Filed 1/2/81, Notice 10/1/80—published 1/21/81, effective 2/25/81]
[Filed 7/26/85, Notice 5/22/85—published 8/14/85, effective 9/18/85]
[Filed 10/17/86, Notice 8/13/86—published 11/5/86, effective 12/10/86]
[Filed 10/27/88, Notice 9/21/88—published 11/16/88, effective 12/21/88]
[Filed 3/26/93, Notice 2/17/93—published 4/14/93, effective 5/19/93]
[Filed 12/12/96, Notice 10/23/96—published 1/15/97, effective 2/19/97]

CHAPTER 14
LEAVE

[Prior to 11/5/86, Merit Employment Department[570]]

581—14.1(19A) Attendance. Appointing authorities shall establish the working schedules, regulations, and required hours of work for employees under their direction. All regulations and schedules shall be made known to the affected employees by appointing authorities. All absences of probationary and permanent employees shall be charged to one of the leave categories provided for in this chapter.

581—14.2(19A) Vacation leave.

14.2(1) Nontemporary employees shall earn vacation for continuous state employment as follows:

a. Two unscheduled holidays to be added to the vacation accrual each year.

b. Two weeks of vacation during the first and through the fourth year of employment.

c. Three weeks of vacation during the fifth and through the eleventh year of employment.

d. Four weeks of vacation during the twelfth year and through the nineteenth year of employment.

e. Four and four-tenths weeks of vacation during the twentieth year and through the twenty-fourth year of employment.

f. Five weeks of vacation during the twenty-fifth and all subsequent years of employment.

14.2(2) Vacation is subject to the following conditions:

a. Vacation shall be subject to the approval of the appointing authority. The appointing authority shall approve vacation so as to maintain the efficient operation of the agency; take into consideration the vacation preferences and needs of the employee; and make every reasonable effort to provide vacation to prevent any loss of vacation accrual.

b. Probationary and permanent part-time employees shall accrue vacation in an amount proportionate to that which would be accrued under full-time employment.

c. Vacation shall not accrue during any absence without pay.

d. An employee who is transferred, promoted, or demoted from one state agency to another shall be credited with the vacation accrued.

e. Employees, including employees who are paid from a pay plan having annual salary rates, who leave state employment for any reason shall be paid, or have payment made according to law, for all accrued vacation. Payment shall be included with the employee's final paycheck and shall be based on the employee's total biweekly regular rate of pay at the time of separation. When other pay is to be included in the calculation, that other pay must have been in effect for at least three pay periods. Vacation shall not be granted after the employee's last day of work.

f. An employee may, at the appointing authority's discretion, be required to use all accrued vacation before being granted any leave without pay, except as otherwise provided in these rules.

g. Vacation shall be charged on the employee's workday basis. Officially designated holidays occurring during an employee's vacation shall not be counted against the employee's accrued vacation.

h. In the event of an illness or disability while on vacation, that portion of the vacation spent under the care of a physician shall be switched retroactively to and charged against the employee's accrued sick leave upon satisfactory proof from the physician of the illness or disability and its duration.

i. Vacation shall not be used in excess of the amount accrued, and shall not be used until the pay period after it is accrued.

j. Vacation shall be cumulative to a maximum of twice the employee's annual rate of accrual, including sick leave conversion. An appointing authority may require an employee to take vacation whenever it would be in the best interests of the agency. The employee shall be given reasonable notice of the appointing authority's decision to require the use of accrued vacation. However, an employee shall not be required to reduce accrued vacation to less than 80 hours.

k. One week of vacation shall be equal to the number of hours in the employee's normal, regular workweek.

l. Any employee who is laid off, and subsequently returns to state employment within two years following the date of separation, shall have previous continuous service and the period of separation counted toward the vacation accrual rate. Employees who decline recall and employees who are rehired but subsequently terminate are ineligible for prior service credit if later reemployed during that same two-year period.

m. An employee who was terminated due to a long-term disability or a job-related illness or injury and applies for recall under 581—subrule 11.3(6), and subsequently returns to state employment within two years following the date of medical release, shall have previous continuous service and the period of time from the date of medical release counted toward the vacation accrual rate.

n. Time spent in military service, within the specified time limits of the military training and service Act, shall be considered continuous service for the purpose of computing vacation accrual, provided the employee returns to state service within 90 calendar days following discharge from military duty. Vacation shall not accrue to an employee while on military leave without pay.

o. If on June 1 an employee has a balance of 160 or more hours of accrued leave, the employer may, with the approval of the employee, pay the employee for up to 40 hours of the accrued annual leave. This amount will be paid on a separate warrant on the payday which represents the last pay period of the fiscal year. Decisions regarding these payments will be made by each department director and are not subject to the grievance procedure provided for in these rules. This paragraph applies only to employees not covered by a collective bargaining agreement.

581—14.3(19A) Sick leave with pay. Probationary and permanent employees shall accrue sick leave at the rate of one and one-half days (5.54 hours for the first and second biweekly pay periods, and 5.52 hours for the third biweekly pay period) for each complete month of full-time employment. The use of sick leave with pay shall be subject to the following conditions:

14.3(1) Accrued sick leave may be used during a period when an employee is unable to work because of medically related disabilities; for physical or mental illness; medical, dental or optical examination, surgery or treatment; or when performance of assigned duties would jeopardize the employee's health or recovery. Medically related disabilities caused by pregnancy or recovery from childbirth shall be covered by sick leave.

14.3(2) Sick leave shall not be used as vacation.

14.3(3) Sick leave shall not be granted in excess of the amount accrued.

14.3(4) There is no limit on the accumulation of sick leave. An employee who has accrued at least 240 hours of sick leave may elect to accrue additional vacation in lieu of the normal sick leave accrual. The conversion shall be on the basis of one hour of vacation for three hours of sick leave, for each full month when sick leave is not used during that month. A conversion shall not be made if the accrued sick leave is less than 240 hours in the pay period in which the conversion is made. The conversion of sick leave shall be prorated for employees who are normally scheduled to work less than full-time (40 hours per week). An employee's maximum vacation accrual may be increased under this subrule up to 96 hours.

14.3(5) In all cases when an employee has been absent on sick leave, the employee shall immediately upon return to work submit a statement that the absence was due to illness or other reasons stated in this rule. Where absence exceeds three working days, the reasons for the absence shall be verified by a physician or other authorized practitioner if required by the appointing authority. An appointing authority may require verification for lesser periods of absence and at any time during an absence. In all cases, sick leave shall not be deducted from that accrued until authorized by the appointing authority.

14.3(6) Sick leave shall be charged on the employee's workday basis. Officially designated holidays occurring during an employee's sick leave shall not be counted against the employee's accrued sick leave.

14.3(7) Sick leave shall not accrue during any absence without pay.

14.3(8) Probationary and permanent part-time employees shall accrue sick leave in an amount proportionate to that which would be accrued under full-time employment.

14.3(9) An employee who is transferred, promoted, or demoted from one agency to another shall be credited with the sick leave accrued.

14.3(10) All accrued sick leave shall be cancelled on the date of separation and no employee shall be reimbursed for accrued sick leave unused at the time of separation except as provided for in Iowa Code section 70A.23 or the applicable collective bargaining agreement. However, if an employee is laid off and is reemployed by any state agency within one year following the date of layoff, or if an employee who was terminated due to an on-the-job injury or illness and is reemployed by any state agency within one year following the date of medical release, the employee's unused accrued sick leave shall be restored.

14.3(11) Employees may also use accrued sick leave, not to exceed a total of 40 hours per fiscal year, for the following purposes:

a. When a death occurs in the immediate family;

b. For the temporary care of, or necessary attention to members of the immediate family.

This leave shall be granted at the convenience of the employee whenever possible and consistent with the staffing needs of the appointing authority.

14.3(12) If an absence because of illness, injury or other proper reason for using sick leave provided for in this rule extends beyond the employee's accrued sick leave, the appointing authority may require or permit additional time off to be charged to any other accrued leave except that employees shall, upon request, be paid accrued vacation and compensatory leave in a lump sum to prevent delay of long-term disability benefits. When all accrued sick leave has been used, the employee may be granted leave without pay or terminated except as provided in subrule 14.5(4). Leave without pay for temporary disabilities for medically related reasons shall be in accordance with rule 581—14.5(19A), prior to termination.

581—14.4 (19A) Family and Medical Leave Act leave. An employee who has been employed for at least 12 months and who has worked at least 1,250 hours during the previous 12-month period shall be eligible for 12 weeks of family and medical leave per fiscal year in accordance with the federal Family and Medical Leave Act (FMLA), these rules, and the policies of the department. Eligibility determinations shall be made as of the date that the FMLA leave is to begin. Eligible employees are entitled to FMLA leave subject to the following conditions:

14.4(1) It is the appointing authority's responsibility to designate leave as FMLA leave. The appointing authority shall designate leave as FMLA leave when the leave qualifies for FMLA leave, even if the employee makes no request for FMLA leave or does not want the leave to be counted as FMLA leave. No more than 12 weeks (480 hours) of family and medical leave shall be granted to an employee in any fiscal year. When both spouses are employed by the state, they shall be limited to a combined total of 12 weeks of FMLA leave taken in accordance with paragraph *"a"* or *"c"* below. The hourly equivalent for part-time employees shall be prorated based upon the average number of hours worked during the previous six months. Leave may be for one or more of the following reasons:

a. The birth, adoption or foster placement of a son or daughter (biological child, adopted child, foster child, stepchild, legal ward or a child to whom the employee stands in loco parentis) provided the leave is taken within 12 months following any such birth, adoption or foster placement;

b. The care of a son or daughter under 18 years of age, or older if incapable of self-care because of a mental or physical disability, or spouse with a serious health condition;

c. The care of a parent or person who stood in loco parentis to the employee, with a serious health condition;

d. A serious health condition that makes an employee incapable of performing any one of the essential functions of the employee's position.

14.4(2) Leave may be taken on an intermittent leave basis or on a reduced work schedule basis where this type of leave is medically necessary. The use of intermittent or reduced work schedule leave for circumstances described in paragraphs *"a," "b"* or *"c"* of subrule 14.4(1) shall be at the discretion of the appointing authority. Approval of intermittent or reduced schedule leave for the circumstance described in paragraph *"d"* of subrule 14.4(1) is mandatory if certified by a health care provider.

14.4(3) Use of sick leave shall be in accordance with rule 14.3(19A). When FMLA leave is taken pursuant to paragraph *"a," "b"* or *"c"* of subrule 14.4(1), an employee must exhaust all paid vacation before unpaid leave is granted. However, sick leave may be used to the extent authorized by subrule 14.3(11). When an employee takes FMLA leave after the birth of a child and the employee has not received a medical release to return to work, the employee must exhaust all accrued sick leave and vacation before unpaid leave is granted. When the employee's medical provider releases the employee to return to work, the employee is no longer eligible to use paid sick leave; however, the employee may use leave as authorized by subrule 14.3(11) and accrued vacation.

An employee who requests FMLA leave after the birth, adoption or foster placement of a son or daughter must take the leave within 12 months after the event.

When family leave is taken pursuant to paragraph *"d"* of subrule 14.4(1), an employee must exhaust all paid sick leave and vacation before unpaid leave is granted. An employee may, but is not required to, use accrued compensatory leave for FMLA leave if the employee follows standard request procedures for the leave. Compensatory leave used in this fashion will not reduce the employee's FMLA leave entitlement.

14.4(4) An employee shall submit a written request of forms developed by the department, to the appointing authority within 30 calendar days prior to the need for FMLA leave when the need for the leave is foreseeable. In situations involving unforeseeable need for leave and leave involving a birth, adoption, foster placement, or planned medical treatment for an illness, the employee must provide notice within two workdays, or as soon as practicable, after the employee learns of the need for the leave. Notice may be made orally or in writing. Untimely requests or failure to provide notice or mandatory information to the appointing authority may result in delay or denial of the FMLA leave. The failure to follow mandatory leave policies may result in discipline to the employee.

The appointing authority shall grant, tentatively grant, delay, or deny leave as FMLA leave within two workdays following notice of the leave or when the appointing authority has a reasonable basis to conclude an absence qualifies as FMLA leave. The appointing authority shall notify the employee using forms developed by the department, or verbally when circumstances prevent delivery of the forms. If verbal notification is made, the appointing authority shall take reasonable steps to deliver written notification to the employee within two workdays.

14.4(5) When the leave involves the employee's serious health condition, the appointing authority may, at the agency's expense, require a second opinion. However, the health care provider chosen by the appointing authority for the second opinion cannot be employed on a regular basis by the appointing authority. If the second opinion differs from the first, the appointing authority may, at the agency's expense, require a third opinion from a health care provider agreeable to both the employee and the appointing authority. The third opinion shall be final and binding on both parties.

14.4(6) During the period of leave, the appointing authority shall pay the state's share of the employee's health, dental, basic life, and long-term disability benefit insurance premiums. Failure by the employee to pay the employee's share of the premiums will result in a loss of coverage. The appointing authority shall provide notice to the employee 15 calendar days prior to any retroactive or prospective cancellation of benefits coverage. Upon return from FMLA leave, employees who have dropped or canceled their health, dental, or life insurance benefits while on FMLA leave will be restored to no more than the same level of benefits upon completion of the necessary insurance applications and other forms required by the department.

14.4(7) Upon returning from FMLA leave, an employee is entitled to no more rights or benefits than the employee would have received had the leave not been taken. If an employee does not return from leave because of the continuation, reoccurrence or onset of a serious health condition, the appointing authority shall require written certification from the health care provider. If the reason for the employee's failure to return is not a certified serious health condition or other circumstances beyond the control of the employee, the state may recover its share of health and dental benefit insurance premiums paid during the period of leave.

14.4(8) The appointing authority may request periodic reports concerning the employee's medical status, and the date the employee may return to work. Requests for periodic reports will be made no more often than necessary depending on the facts and circumstances of each case and shall not exceed one request every 30 days absent extenuating circumstances.

The appointing authority shall require written certification from the health care provider that the employee is able to resume work before allowing an employee with a serious health condition to return from FMLA leave. Upon return from FMLA leave, the employee shall be placed in a position in the same class held prior to the leave, or a class in the same pay grade for which the employee qualifies, with the same pay, benefits, terms and conditions of employment, and geographical proximate location, except that:

a. If a reduction in force occurs while the employee is on leave, the employee's right to a position shall be established in accordance with 581—Chapter 11.

b. The employee's pay increase eligibility date shall be adjusted for absences of more than 30 calendar days.

14.4(9) If an employee unequivocally advises the employer that the employee does not intend to return to work, the employee's entitlement to FMLA leave and associated benefits cease. The failure to return to work upon the expiration of FMLA leave may be considered to be job abandonment.

14.4(10) If the employee is unable to perform an essential function of the position because of a physical or mental condition, including the continuation of a serious health condition, the employee has no right to restoration to another position under the FMLA. The appointing authority's obligations may be governed by the Americans With Disabilities Act. The appointing authority shall make reasonable accommodations for a qualified employee with a disability when such accommodations will allow the employee to perform essential job functions unless they pose an undue hardship.

14.4(11) An employee remains a participant in the deferred compensation and dependent care programs while on FMLA leave as authorized by these rules and the policies of the department.

14.4(12) FMLA leave runs concurrently with other leave programs administered by the department to the extent the leave qualifies as FMLA leave.

14.4(13) FMLA leave may run concurrently with a workers' compensation absence. However, if the employee is supplementing workers' compensation, the period of supplementation cannot count against FMLA leave entitlement. The employer shall wait to designate a workers' compensation absence as FMLA leave until all accrued paid leave is exhausted or the employee unequivocally elects not to supplement.

An employee can be offered "restricted light duty," and, if such restricted duty is refused, it may result in the loss of workers' compensation benefits. Under the FMLA, the appointing authority may offer restricted duty; however, if the employee refuses, the employee shall lose workers' compensation benefits but is still protected by the FMLA.

Employees on workers' compensation who are on FMLA leave concurrently and who are unable to return to work after the exhaustion of FMLA leave are subject to state workers' compensation laws and will have no job restoration rights under the FMLA.

14.4(14) Retention of vacation leave. Notwithstanding subrule 14.4(3), non-contract-covered employees who qualify for FMLA leave are eligible to retain up to two weeks (80 hours) of accrued vacation leave in each fiscal year. An employee must elect, on forms prescribed by the department, to retain up to two weeks (80 hours) of vacation at the onset of the FMLA qualifying event or at any time during the original eligibility period. An employee will not be permitted to retain more vacation than is in the employee's vacation bank at the time of election. Once the election is made, it cannot be increased; however, it may be reduced, at any time, to less than 80 hours. An employee will not be eligible to retain any donated leave.

For employees covered by a collective bargaining agreement, the retention of vacation leave will be governed by the collective bargaining agreement.

581—14.5(19A) Leave without pay. A permanent or probationary employee, on written request and written approval by the appointing authority, may be granted leave without pay for any reason deemed satisfactory to the appointing authority, subject to the following conditions:

14.5(1) Leave without pay shall not originally be granted for more than 12 consecutive months. Accrued leave need not be exhausted before leave without pay is granted except that accrued sick leave must be exhausted if the reason for leave without pay is due to a medically related disability. The determination to require the exhaustion of any or all accrued leave shall rest with the appointing authority except as provided in subrule 14.5(4). On written request, prior to the expiration of a granted leave, the appointing authority may, in writing, grant an extension of the leave without pay. The approved leave without pay extension may not be for more than an additional 12 consecutive months, unless otherwise approved by the director.

14.5(2) Failure by the employee to report back to work on the date specified in the written request shall be considered a voluntary resignation unless otherwise approved by the appointing authority. A written statement accepting the resignation shall be sent to the employee by the appointing authority and a copy sent to the director.

14.5(3) Employees who do not supplement workers' compensation with sick leave, vacation or compensatory leave, and who are kept on the payroll in a nonpay status for more than 30 calendar days, shall be placed on leave without pay for purposes of probationary periods, pay increase eligibility, and other benefits. A written statement to this effect shall be sent to the employee within three days following the action by the appointing authority.

14.5(4) When requested in writing and verified by the employee's physician or other licensed practitioner, an employee shall be granted leave, either paid, unpaid or a combination of the two at the discretion of the employee, for at least an eight-week period when the purpose is to provide recovery from a medically related disability except that leave without pay shall not be granted unless accrued sick leave has been exhausted. The appointing authority may grant leave in excess of the eight-week period. Paid leave shall not be granted in excess of that accrued. At any time during the period of leave the appointing authority may require that the employee submit written verification of continuing disability from the employee's physician or other licensed practitioner. In addition to the reason listed, subrule 14.5(2) shall also apply under the following circumstances:

a. The employee fails or refuses to supply the requested verification of continued disability.

b. The verification does not clearly show sufficient continuing reason that would prevent the performance of the employee's regular work duties.

c. The employee is shown to be performing work which is incompatible with the purpose for which the leave without pay was granted.

14.5(5) If an employee applies for leave under the Family and Medical Leave Act, any leave without pay under the Family and Medical Leave Act shall run concurrently with the leave granted under this rule.

581—14.6(19A) Rights upon return from leave.

14.6(1) An employee who is on approved leave without pay, Olympic leave, educational leave or leave without pay for military service must notify the agency or institution from which on leave of the intent to exercise return from leave rights. Upon return from leave the employee shall have the right to return to a vacant position in the class held prior to the leave or to a class in the same pay grade for which the employee qualifies. If a vacant position is not available, the reduction in force provisions of 581—Chapter 11 shall apply. The appointing authority must approve if an employee on leave without pay, Olympic leave, or educational leave requests to return to work sooner than the original approved leave expiration date. Employees on leave without pay for more than 30 calendar days, except for military leave, or educational leave required by the appointing authority, shall have their pay increase eligibility date adjusted to a later date which reflects the period of leave without pay.

14.6(2) An employee who elects to separate from employment for purposes of induction into military service shall have the right to return to a vacant position in the class held prior to separation or to a class in the same pay grade for which the employee qualifies. If a vacant position is not available, the reduction in force provisions of 581—Chapter 11 shall apply. Upon return, the employee's pay increase eligibility date and unused sick leave at the time of separation shall be restored.

581—14.7(19A) Compensatory leave. Compensatory leave accrued in accordance with 581—subrule 4.11(5) shall be granted at the request of the employee whenever possible. However, the appointing authority need not grant a request for compensatory leave if granting the leave would cause an undue disruption.

581—14.8(19A) Holiday leave. Holidays shall be granted in accordance with statutory provisions to employees who are eligible to accrue vacation and sick leave.

14.8(1) The value of a holiday for full-time employees shall be eight hours or the number of hours the employee is scheduled to work on that day, whichever is greater. The value of a holiday that falls on a full-time employee's scheduled day off shall be eight hours. Employees who are normally scheduled to work full-time shall not have their holiday compensation prorated for time on leave without pay during the pay period if the employee meets the conditions of subrule 14.8(3).

Compensation for holidays shall be prorated for employees who are normally scheduled to work less than 80 hours in a pay period. Compensation shall be based on the number of hours in pay status during the pay period in which the holiday falls plus the hours that would normally be scheduled for the holiday which shall be included when determining the number of pro-rata holiday hours.

Leave accrued under Iowa Code section 1C.2 as vacation shall be based on the employee's hours in pay status.

Compensation for holidays under this rule shall be either in pay or compensatory leave. The decision to pay or grant compensatory leave shall be made by the appointing authority.

14.8(2) For employees who work Monday through Friday, a holiday falling on Sunday shall be observed on the following Monday and a holiday falling on Saturday shall be observed on the preceding Friday. For all other employees, the designated holiday shall be observed on the day it occurs.

14.8(3) To be eligible for holiday compensation an employee must be in pay status the last scheduled workday before and the first scheduled workday after the holiday.

An employee who separates from employment and whose last day in pay status precedes a holiday shall not be eligible for payment for that holiday.

14.8(4) When the holiday falls on an overtime-covered employee's scheduled workday, and the employee does not get the day off, the employee shall be compensated for the holiday in accordance with subrule 14.8(1) in addition to a premium rate for time worked. The premium rate shall be paid for hours worked during the 24-hour period from 12 a.m. through 11:59 p.m. on the holiday. However, hours compensated at the premium rate shall not be counted as part of the 40 hours when calculating overtime pay.

When the holiday falls on an overtime-covered employee's day off, the employee shall be compensated for the holiday to a maximum of eight hours.

14.8(5) When an overtime exempt employee is required to work on a holiday, the employee may be compensated for the time worked in addition to regular holiday pay at the discretion of the appointing authority. When granted, compensation shall be at the employee's regular rate of pay for all hours worked.

581—14.9(19A) Military leave.

14.9(1) A nontemporary employee who is a member of the uniformed services, when ordered by proper authority to serve in the uniformed services, shall be granted leave. Such leave shall include a reasonable amount of time for commuting, for the period of active or inactive state or federal military service without loss of pay, benefits, seniority, or position during the first 30 days of leave. Thereafter, absences required for military service shall be in accordance with the rules on vacation, compensatory leave, or leave without pay, and 38 U.S.C. Sections 4301-4333. Military leave may be utilized for up to 30 days in any calendar year. Any amount of military leave taken during any part of an employee's scheduled workday, regardless of the number of hours actually taken, shall count as one day toward the 30 paid day maximum. Work schedule changes shall not be made for the purpose of avoiding payment for military leave.

14.9(2) A nontemporary employee who is inducted into military service may elect to be placed on leave without pay or be separated and removed from the payroll. The maximum period of accumulated time an employee can be on leave without pay or be separated from employment and still have return rights is five years.

a. The following periods shall be excluded from accumulation to determine return rights of an employee:

(1) Periods in which the employee is required, beyond five years, to complete an initial period of obligated service.

(2) Periods during which a person is unable to get orders releasing the person from a period of service in the uniformed services before the expiration of such five-year period and such inability was through no fault of the person.

(3) Periods ordered to be performed under 10 U.S.C. Sections 270, 672(a), 672(g), 673, 673(c), and 688; 14 U.S.C. Sections 331, 332, 359, 360, 367, and 712; and 32 U.S.C. Sections 502(a) and 503.

(4) Periods ordered to or retained on active duty (other than for training) under any provision of law during a war or during a national emergency declared by the President or Congress.

(5) Periods ordered to or retained on active duty (other than for training) in support, as determined by the Secretary concerned, of an operational mission for which personnel have been ordered to active duty under the authority of 10 U.S.C. Section 673(b).

(6) Periods ordered to active duty in support, as determined by the Secretary concerned, of a critical mission or requirement of the uniformed services or called into federal service as a member of the National Guard under 10 U.S.C. Chapter 15 or under Sections 3500 or 8500.

b. The employer is not required to reemploy an individual if the individual's employment prior to military service was for a brief, nonrecurring period and there was no reasonable expectation that it would continue indefinitely; if reemployment would cause an undue hardship on the employer; if the employer's circumstances have so changed as to make such reemployment impossible or unreasonable; or if the employee has not received an honorable discharge for the employee's period of service in the uniformed services. It is the responsibility of the employer to document such "undue hardship" as well as circumstances that have changed such that reemployment is impossible or unreasonable. When requested, this documentation shall be provided to the former employee.

14.9(3) Nontemporary employees who elect to separate from employment for induction into military service shall be given 30 days of regular pay in a lump sum with their last paycheck. Any previous paid leave days granted for military service in the current calendar year shall be deducted from this 30 days.

Employees who elect to be placed on leave without pay when inducted into military service shall continue to receive regular pay and benefits for the first 30 days of leave. Any previous paid leave days granted for military service in the current calendar year shall be deducted from this 30 days.

14.9(4) The employee must notify the agency from which separated or placed on leave without pay of the intent to exercise return rights. If the service is less than 31 days (or for the purpose of taking an examination to determine fitness for service) the employee must report to the employer for reemployment at the beginning of the first full regularly scheduled working period on the first calendar day following completion of service and the expiration of eight hours after a time for safe transportation back to the employee's residence. If reporting within that period is impossible or unreasonable through no fault of the employee, the employee shall report to work as soon as possible.

If the period of service was for 31 days or more but less than 181 days, the employee must submit an application to the employer no later than 14 calendar days following completion of service (if submitting an application is impossible or unreasonable through no fault of the employee, then the next calendar day when submission of the application is possible). For service over 180 days, the employee must submit an application with the employer no later than 90 days after completion of the service.

These time period restrictions shall be extended by up to two years if an employee is hospitalized or convalescing from an injury caused by active duty. The two-year period will be extended by the minimum time required to accommodate the circumstances beyond the individual's control which makes reporting within the time limits impossible or unreasonable.

14.9(5) The employer may request that an employee provide the employer with documentation that establishes the timeliness of the application for reemployment and the length and character of uniformed service. If documentation is unavailable, the employer must reemploy the employee until the documentation becomes available. If, after such reemployment, documentation becomes available that establishes that such person does not meet one or more of the requirements for reemployment, the employer may terminate the employment of the person.

14.9(6) An employee with fewer than 91 days of uniformed service must be reemployed promptly in a position that the employee would have attained if continuously employed, unless proved not qualified after reasonable efforts are made by the employer to qualify the employee. If not qualified for that position, the person will be reemployed in the position the person left. These requirements are the same for service of 91 days or more, with the additional option that a position of like seniority, status and pay may be offered. If unqualified after reasonable efforts by the employer to qualify the employee for such a position or the position that was left prior to service, the employee must be reemployed in any other position of lesser status and pay for which the employee is qualified, with full seniority. The position for which the employee is entitled is further governed by rule 581—14.6(19A).

An employee with a service-connected disability who is not qualified for employment in the position the employee would have attained but for military service, or in the position that was left (even after reasonable efforts by the employer to accommodate the disability) must be reemployed promptly in any other position of similar seniority, status, and pay for which qualified or would become qualified with reasonable efforts by the employer. If these efforts fail, reemployment must be in a position which is the nearest approximation consistent with the circumstances of the employee's case.

If two or more employees are entitled to reemployment in the same position or classification, the individual who left first for service in the uniformed services has the higher right to be reemployed first.

14.9(7) Upon reemployment, a person is entitled to the seniority and other benefits the individual would have attained, with reasonable certainty, had that person remained continuously employed. The employee may be required to pay the employee cost, if any, of any benefit to the extent that other employees are required to pay.

14.9(8) Any person taking military leave may use any vacation that is accrued prior to service. Upon reemployment, the employee's accrual rate for vacation shall be the same rate as if the employee had not taken military leave.

14.9(9) An employee may maintain health and dental insurance coverage while on military leave for up to 18 months. The employee is responsible for paying the employee's share of the health and dental insurance premiums if the period of military service is less than 31 days. If beyond 31 days, the employee shall be required to pay 102 percent of the full premium under the plan to maintain coverage. Upon reemployment, health and dental insurance coverage will become effective either on the first day of the month following the month the employee was reemployed or the first day of the month in which the employee was reemployed. Coverage under the plans will not have an exclusion or waiting period upon reemployment. An exclusion or waiting period may be imposed, however, in connection with any illness or injury determined by the Secretary of the U.S. Department of Veterans' Affairs to have been incurred in, or aggravated during, performance of service in the uniformed services.

14.9(10) A person reemployed under this rule shall be treated as not having incurred a break in service with the employer by reason of such person's period of service in the uniformed services. No forfeiture of benefits already accrued will be permitted and there will be no necessity to requalify for participation in a retirement system by reason of absence for military service. To the extent required by law, employers will be required to make, on behalf of returning service members, any contributions to their pensions that the employer would have made if the service member had not been absent for military service. Employees will have up to three times the period of service to make up missed contributions (not to exceed five years). The employer is required to make matching contributions only to the extent that the reemployed service member makes the required employee contributions. No interest or penalty will be charged on the employee or employer contribution, nor will the employee be credited with interest that would have been earned on such contributions.

581—14.10(19A) Educational leave. Educational leave, with or without pay, may be granted at the discretion of the appointing authority for the purpose of assisting state employees to develop skills that will improve their ability to perform their present job responsibilities or to provide training and developmental opportunities for employees that will enable the agency to better meet staffing needs. Education financial assistance shall be in accordance with rule 581—15.10(19A).

14.10(1) *Length of leave.* Educational leave shall be requested for a period not to exceed 12 consecutive months. Accrued vacation or compensatory leave need not be exhausted before educational leave is granted. The determination to require the exhaustion of any or all accrued leave shall rest with the appointing authority. The appointing authority may grant an extension of the original leave for an additional 12 months.

14.10(2) *Selection of applicants.* While the selection of applicants is at the discretion of the appointing authority, it is the express policy of the state to offer all qualified employees an equal opportunity to be considered for educational leave within the limitations imposed by agency staffing requirements.

14.10(3) *Educational institutions.* An employee on educational leave may take course work at any accredited educational institution within the state. Attendance at out-of-state institutions may be approved provided there are geographical or educational considerations which make attendance at institutions within the state impractical.

14.10(4) *Notification.* The appointing authority shall notify the legislative council and the director of all educational leaves within 15 days following the granting of the leave in a manner prescribed by the director. If the appointing authority fails to notify the legislative council and the director, the expenditure of funds for the educational leave shall not be allowed.

14.10(5) *Agency report.* The appointing authority shall report to the director and the legislative council, not later than October 1 of each year, the direct and indirect costs to the agency of educational leave granted to employees during the preceding fiscal year in a manner prescribed by the director.

581—14.11(19A) Election leave. An employee who is not covered by the federal Hatch Act and who becomes a candidate for paid, partisan elective office shall, upon the employee's request, be granted leave 30 calendar days before a contested primary, special, or general election. The employee may choose to use accrued vacation or compensatory leave, or leave without pay to cover these periods.

An employee who is elected to a paid, partisan office or appointed to an elective paid, partisan office shall, upon written request to the appointing authority, be granted leave to serve in that office, except where prohibited by federal law. The use of accrued vacation or compensatory leave, or leave without pay to cover this period shall be at the discretion of the employee. The leave provided for in this rule need not exceed six years. An employee shall not be prohibited from returning to employment before the expiration of the period for which the leave was granted.

581—14.12(19A) Court appearances and jury duty. When in obedience to a subpoena, summons, or direction by proper authority, an employee appears as a witness or a jury member in any public or private litigation in which the employee is not a party to the proceedings, the employee shall be entitled to time off during regularly scheduled work hours with regular compensation, provided the employee gives to the appointing authority any payments received for court appearance or jury service, other than reimbursement for necessary travel or personal expenses. If the employee is directed to appear as a witness by the appointing authority, all time spent shall be considered to be worktime.

14.12(1) Hours spent on court or jury leave by an employee outside the employee's scheduled work hours are not subject to this rule, nor shall any payments received for court appearance or jury service be remitted to the appointing authority.

14.12(2) The employee shall notify the appointing authority immediately upon receipt of a subpoena, summons, or direction by proper authority to appear.

14.12(3) An employee may be required to report to work if there will be at least two hours in the workday, following necessary travel time, during which the employee is not needed for jury service or as a witness.

14.12(4) Upon return to work, the employee shall present evidence to the appointing authority of any payments received for court appearance or jury service.

581—14.13(19A) Voting leave. An employee who is eligible to vote in a public election in the state of Iowa may request time off from work with regular pay for a period not to exceed three hours for the purpose of voting. Leave shall be granted only to the extent that the employee's work hours do not allow a period of three consecutive hours outside the employee's scheduled work hours during which the voting polls are open.

A request for voting leave must be made to the appointing authority on or before the employee's last scheduled shift prior to election day. The time to be taken off shall be designated by the appointing authority.

581—14.14(19A) Disaster service volunteer leave. Subject to the approval of the appointing authority, an employee who is a certified disaster service volunteer for the American Red Cross may, at the request of the American Red Cross, be granted leave with pay to participate in disaster relief services relating to a disaster in the state of Iowa. Such leave shall be only for hours regularly scheduled to work and shall not be for more than 15 workdays in a fiscal year. Employees granted such leave shall not lose any rights or benefits of employment while on such leave. An employee while on leave under this rule shall not be deemed to be an employee of the state for the purposes of workers' compensation or for the purposes of the Iowa tort claims Act.

581—14.15(19A) Absences due to emergency conditions. When a proper management authority closes a state office or building or directs employees to vacate a state office or building premises, employees may elect to use compensatory leave, vacation, or leave without pay to cover the absence. Employees may, with the approval of the appointing authority, elect to work their scheduled hours even though the state office or building is closed to the general public. Employees may, with the approval of the appointing authority, be permitted to make up lost time within the same workweek.

Employees who are unable to report to work as scheduled or who choose to leave work due to severe weather or other emergency conditions may, with the approval of the appointing authority, use compensatory leave, vacation, or leave without pay to cover the absence.

581—14.16(19A) Particular contracts governing. Where provisions of collective bargaining agreements differ from the provisions of this chapter, the provisions of the collective bargaining agreements shall prevail for the employees covered by those agreements.

581—14.17(19A) Examination and interviewing leave.

14.17(1) Employees may be granted leave to take examinations for positions covered by merit system provisions. Employees may elect to use vacation leave, compensatory leave, or leave without pay at the discretion of the appointing authority.

14.17(2) Employees may be granted the use of paid work time to attend interviews during scheduled work hours for jobs within their agency. For agencies that have statewide operations, the appointing authority may restrict the use of paid time to interviews within the central office, institution, county, region, or district office. A reasonable time limit for interviews may be designated by the appointing authority. Employees may be granted leave for interviews outside the agency, central office, institution, county, region, or district office in which case they may elect to use vacation leave, compensatory leave, or leave without pay at the discretion of the appointing authority.

14.17(3) Appointing authorities shall post and make known to employees the provisions of this rule.

581—14.18(19A) Service on committees, boards, and commissions. State employees who are appointed to serve on committees, boards, commissions, or similar appointments for Iowa state government shall be entitled to regular compensation for such service. Employees shall be paid in accordance with these rules for time spent.

Pursuant to Iowa Code section 70A.1, employees shall not be entitled to additional compensation for such service.

Employees shall have actual and necessary expenses paid.

Employees shall notify the appointing authority at the time of the appointment.

581—14.19(19A) Donated leave for catastrophic illnesses of employees and family members. Employees are eligible to donate or receive donated leave hours for catastrophic illnesses of the employee or an immediate family member. Contributions shall be designated as "donated leave" and shall be subject to the rules, policies and procedures of the department.

14.19(1) *Definitions:*

"Catastrophic illness" means a physical or mental illness or injury of the employee, as certified by a licensed physician, that will result in the inability of the employee to work for more than 30 workdays on a consecutive or intermittent basis; or that will result in the inability of the employee to report to work for more than 30 workdays due to the need to attend to an immediate family member on a consecutive or intermittent basis.

"Donated leave" means vacation leave (hours) donated to employees as a monetary benefit only. Recipient employees will not accrue vacation or sick leave benefits on donated leave hours.

"Employee" means a full-time or part-time executive branch employee who is eligible to accrue vacation.

"Immediate family member" means the employee's spouse, parent, son, or daughter, as defined in the federal Family and Medical Leave Act.

14.19(2) *Program eligibility for employee illness.* In order to receive donated leave for a catastrophic illness, an employee must:

a. Have a catastrophic illness as defined by subrule 14.19(1); and

b. Have exhausted all paid leave; and

c. Not be supplementing workers' compensation to the extent that it exceeds more than 100 percent of the employee's pay for the employee's regularly scheduled work hours on a pay-period-by-pay-period basis; and

d. Not be receiving long-term disability benefits; and

e. Be approved for and using or have exhausted Family and Medical Leave Act (FMLA) leave hours if eligible; and

f. Be on approved leave without pay for medical reasons during any hours for which the employee will receive donated leave.

14.19(3) *Program eligibility for immediate family member illness.* In order to receive donated leave for a catastrophic illness of an immediate family member, the immediate family member must have a catastrophic illness as defined in subrule 14.19(1). The employee must:

a. Have exhausted all paid leave for which eligible; and

b. Be approved for and using or have exhausted Family and Medical Leave Act leave hours if eligible; and

c. Be on approved leave without pay for the medical reasons of an immediate family member during any hours for which the employee will receive donated leave.

14.19(4) *Certification requirements.* The employee shall submit an application for donated leave on forms developed by the department. Appointing authorities may, at their department's expense, seek second medical opinions or updates from physicians regarding the status of an employee's or employee's immediate family member's illness or injury. If the employee is receiving FMLA leave, a second opinion must be obtained from a physician who is not regularly employed by the state.

14.19(5) *Program requirements.*

a. Vacation hours shall be donated in whole-hour increments; however, they may be credited to the recipient in other than whole-hour increments. All of the recipient's accrued leave must be used before donations will be credited to the recipient. Hours will be credited in increments not to exceed the employee's regularly scheduled work hours on a pay-period-by-pay-period basis. Recipients will not accrue vacation and sick leave on donated leave hours.

b. Approval of use of donated leave shall be for a period not to exceed one year either on an intermittent or continuous basis for each occurrence.

c. Donated leave shall be irrevocable after it is credited to the recipient. Donated hours not credited to the recipient will not be deducted from the donor's vacation leave balance. Donated leave shall be credited on a first-in/first-out basis.

d. Donated leave for catastrophic illness will not restrict the right to terminate probationary employees. The period of probationary status and the pay increase eligibility date, if in excess of 30 days, will be extended by the amount of time the employee received donated leave.

e. Appointing authorities shall post a form developed by the department indicating that the employee is eligible to receive donated leave and the name of the person to contact for the donation. The appointing authority is not responsible for posting outside the employing department; however, donated leave hours can be received from executive branch employees outside the employing department.

f. Leave without pay rules and procedures shall apply to the following benefits: health, dental, life, and long-term disability insurances; pretax; deferred compensation; holiday pay, sick leave and vacation leave accrual, shift differential pay, longevity pay and cash payments. In addition, employees receiving donated leave for catastrophic illness for themselves or their immediate family member will not be eligible for leadworker pay, extraordinary duty pay or special duty pay. If FMLA leave and donated leave for a catastrophic illness are used concurrently, the state is obligated to pay its share of health and dental insurance premiums. The state also maintains an employee's basic life and long-term disability insurances during periods of FMLA leave.

g. Employees may choose to continue or terminate optional deductions (e.g., miscellaneous insurance, savings bonds, charitable contributions, or credit union deductions) while using donated leave. Mandatory deductions are taken from gross pay first, then optional deductions as funds are available and as authorized by the employee. Union dues deductions will continue as long as the employee has sufficient earnings to cover the dollar amount certified to the employer after deductions for social security, federal taxes, state taxes, retirement, health and dental insurance, and life insurance.

h. Contributions to the employee's dependent care account will not be allowed during a period of leave without pay. Claims will not be paid for dependent care while an employee is on leave without pay.

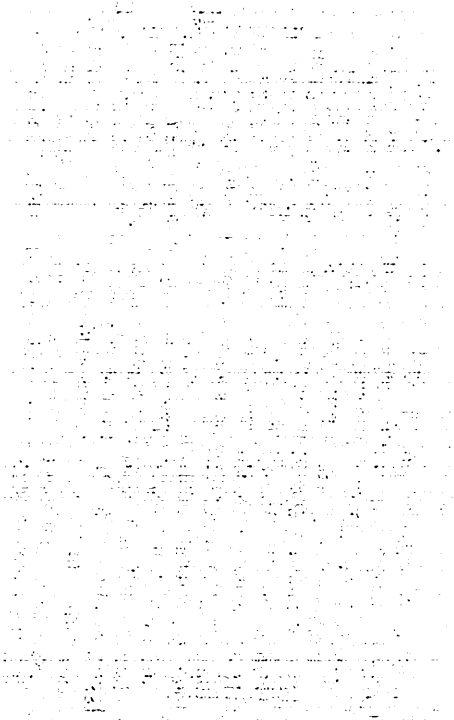
i. If an employee applies for and is approved to receive long-term disability, the employee may continue to receive leave contributions for up to one year on an intermittent or continuous basis or the effective date of the employee's long-term disability, whichever comes first. Donated leave hours not used are not credited to the recipient and are not deducted from the donor's vacation leave balance.

These rules are intended to implement Iowa Code section 19A.9.

[Filed 11/5/70; amended 4/14/71, 5/1/71, 8/18/71, 12/23/71, 5/10/72, 9/13/72, 10/11/72, 8/16/73, 7/26/74, 5/19/75]
[Amendment filed 9/4/75, Notice 7/28/75—published 9/22/75, effective 10/27/75; emergency amendment filed and effective 10/20/75—published 11/3/75]
[Emergency amendment filed and effective 11/4/75—published 11/3/75]
[Filed 1/19/76, Notice 11/17/75—published 2/9/76, effective 3/15/76]
[Filed 4/23/76, Notice 3/8/76—published 5/17/76, effective 6/21/76]
[Filed 8/2/76, Notice 6/28/76—published 8/9/76, effective 9/13/76]
[Filed 9/16/76, Notice 8/9/76—published 10/6/76, effective 11/10/76]
[Filed 2/1/78, Notice 12/28/77—published 2/22/78, effective 3/29/78]
[Filed 8/2/78, Notice 6/28/78—published 8/23/78, effective 9/27/78]
[Filed 10/17/78, Notice 8/9/78—published 11/15/78, effective 12/20/78]
[Filed 8/1/79, Notice 6/13/79—published 8/22/79, effective 9/26/79]
[Filed 10/12/79, Notice 8/22/79—published 10/31/79, effective 12/5/79]
[Filed 10/26/79, Notice 9/19/79—published 11/14/79, effective 12/20/79]
[Filed 7/6/81, Notice 4/15/81—published 7/22/81, effective 8/26/81]
[Filed 12/3/82, Notice 10/13/82—published 12/22/82, effective 1/26/83*]
[Filed emergency 6/29/84—published 7/18/84, effective 7/1/84]
[Filed 8/24/84, Notice 7/18/84—published 9/12/84, effective 10/17/84]
[Filed 11/30/84, Notice 9/26/84—published 12/19/84, effective 1/23/85]
[Filed 3/22/85, Notice 10/24/84—published 4/10/85, effective 5/15/85]
[Filed 7/26/85, Notice 5/22/85—published 8/14/85, effective 9/18/85]
[Filed 12/3/85, Notice 10/9/85—published 12/18/85, effective 1/22/86]
[Filed 12/13/85, Notice 10/9/85—published 1/1/86, effective 2/5/86]
[Filed 10/17/86, Notice 8/13/86—published 11/5/86, effective 12/10/86]
[Filed 7/24/87, Notice 6/17/87—published 8/12/87, effective 9/16/87]

*Effective date of subrule 14.2(12) delayed 70 days by Administrative Rules Review Committee. Delay lifted by Committee on 2/8/83. See details following chapter analysis.

[Filed 2/18/88, Notice 1/13/88—published 3/9/88, effective 4/13/88]
[Filed 4/29/88, Notice 3/9/88—published 5/18/88, effective 7/1/88]
[Filed 9/2/88, Notice 6/29/88—published 9/21/88, effective 10/26/88]
[Filed 10/27/88, Notice 9/21/88—published 11/16/88, effective 12/21/88]
[Filed 3/29/89, Notice 2/8/89—published 4/19/89, effective 5/26/89]
[Filed 7/7/89, Notice 5/17/89—published 7/26/89, effective 9/1/89]
[Filed 9/29/89, Notice 8/23/89—published 10/18/89, effective 11/24/89]
[Filed 2/1/90, Notice 12/13/89—published 2/21/90, effective 3/30/90]
[Filed 2/1/91, Notice 12/12/90—published 2/20/91, effective 3/29/91]
[Filed 5/23/91, Notice 4/17/91—published 6/12/91, effective 7/19/91]
[Filed 3/26/93, Notice 2/17/93—published 4/14/93, effective 5/19/93]
[Filed emergency 8/5/93—published 9/1/93, effective 8/5/93]
[Filed emergency 7/18/95—published 8/16/95, effective 7/18/95]
[Filed 12/12/96, Notice 10/23/96—published 1/15/97, effective 2/19/97]
[Filed 8/12/99, Notice 6/16/99—published 9/8/99, effective 10/13/99]



CHAPTER 15
BENEFITS

[Prior to 8/15/86; See Deferred Compensation Program, 270—Ch 4]

581—15.1(19A) Health benefits. The director is authorized by the executive council of Iowa to administer health benefit programs for employees of the state of Iowa.

15.1(1) An insurance carrier or other entity proposing to provide group benefits or a prepaid group health care plan to state employees must, as an entity or in terms of the plan proposed, be eligible to contract with the state of Iowa as provided in Iowa Code section 509A.6, and shall provide the following to the department not later than March 1 preceding the plan year for which services are proposed:

a. Proposed solicitation brochures, membership literature, and master contracts. The content of these materials shall require prior approval by the department before distribution to any other party. The information about any health benefit plan which has regional or provider restrictions shall include a list of its service counties, a list of available physician providers by name, specialty, and address, and a list of all other contracted providers..

b. Proposed premium rate and administrative service charges.

c. Evidence of agreement to the state's administrative requirements including a defined remittance methodology, negotiated enrollment/eligibility guidelines, ability to direct bill all former employees, a defined coverage methodology for employees electing to change carriers, the ability to offer a conversion health plan, extend coordination of benefits, rules for subrogation, confirmation of compliance with COBRA, TEFRA, OBRA, and any other administrative requirements deemed reasonable.

15.1(2) The executive council of Iowa shall determine the amount of the state's contribution toward each individual non-contract-covered employee's premium cost and shall authorize the remaining premium cost to be deducted from the employee's pay. The state's contribution for each contract-covered employee shall be as provided for in collective bargaining agreements negotiated in accordance with Iowa Code chapter 20.

15.1(3) Health maintenance organizations (HMO) and organized delivery systems (ODS). Beginning with the benefit year starting January 1, 2001, any HMO or ODS seeking approval to offer benefits to state employees shall provide evidence of accreditation by the National Committee for Quality Assurance (NCQA) or the Joint Commission on Accreditation of Health Care Organizations (JCAHO). When an HMO or ODS seeks approval to offer benefits to state employees and has not achieved the required accreditation, the director of the department may waive the accreditation requirement for up to two consecutive benefit years. The granting of such a waiver shall be based, in part, on information submitted by the HMO or ODS that outlines its intent to achieve accreditation. If the HMO or ODS has not achieved the required accreditation by the end of the second benefit year, the director shall report this information to the executive council, and may recommend termination of the contract.

a. Definitions. The following definitions shall apply when used in this rule:

"Employee" means any employee of the state of Iowa covered by Iowa Code chapter 509A.

"HMO" means any health maintenance organization as defined in Iowa Code section 514B.1(3).

"ODS" means any organized delivery system as defined in rule 641—201.2(135,75GA,ch158).

"Operational" means having entered into health care service contracts with enrollees and providers and providing services in accordance with those contracts.

b. HMO minimum qualifications. The state of Iowa may contract to provide health care benefits to state employees with any HMO that provides the following to the department not later than March 1 preceding the plan year for which services are proposed:

(1) Evidence that it is licensed to do business in the state of Iowa by the insurance division of the Iowa department of commerce.

(2) Evidence that it has been operational for not less than one year, unless the requirement is waived by the director.

(3) Evidence that it offers, either itself or by contract, a benefit plan to all Medicare recipients that supplements but does not duplicate Medicare benefits.

(4) Evidence that it has filed with the insurance division of the Iowa department of commerce its most recent quarterly and annual reports in compliance with Iowa Code section 514B.12 and rule IAC 191—40.12(514B).

(5) The dates of its most recent examinations by the insurance division of the Iowa department of commerce and by the Iowa department of public health as required in Iowa Code section 514B.24, an accounting of any discrepancies discovered in such examinations and an indication of the extent to which such discrepancies have been corrected.

(6) A master contract which includes provisions requiring delivery of written termination notice by either party to the contract to the other party not less than 60 calendar days prior to contract termination.

(7) Proposed premium rates supported by:

- Actual claims and utilization experience;
- Quoted trend factors;
- Quality assurance indicators;
- A description of the rating methodology used to develop the rate quote;
- A description of the application of the rating methodology used in developing the rate quote;
- Other potential administrative issues not listed.

(8) Annual data and reports in accordance with the director's specifications. If all other requirements have been met and it is the initial year that an HMO has been authorized to offer benefits to state employees, failure to comply with the state's group-specific data requirement shall not result in the removal of the HMO from the state benefit plan.

c. ODS minimum qualifications. The state of Iowa may contract to provide health care benefits to state employees with any ODS which provides evidence to the department that the ODS:

(1) Has received approval of its application from the Iowa department of public health; and

(2) Has been licensed to do business in the state of Iowa by the Iowa department of public health.

If the requirements specified in subparagraphs (1) and (2) have been met, the ODS shall also be required to provide the following to the department not later than March 1 preceding the plan year for which services are proposed:

1. Evidence that the ODS has been operational for not less than one year, unless the requirement is waived by the director.

2. Evidence that the ODS offers, either itself or by contract, a benefit plan to all Medicare recipients which supplements, but does not duplicate, Medicare benefits.

3. Evidence that the ODS has filed its most recent financial statements in compliance with IAC 641—201.12(135,75GA,ch158).

4. The dates of its most recent examination by the commissioner of insurance in compliance with IAC 641—subrule 201.12(5).

5. A master contract which includes provisions requiring delivery of written termination notice by either party to the contract to the other party not less than 60 calendar days prior to contract termination. Such information must also include a list of the counties included in the ODS' service area, a list of available ODS physician providers by name, specialty, and address, and a list of all other contracted providers.

c. Compensation will be provided in cash according to the terms of the demutualization plan. In the event that stocks are issued in lieu of cash, the company shall issue all certificates to the employer on behalf of the affected participants and shall provide a listing which includes participants' names, social security numbers, policy numbers, and number of shares pro rata. The certification(s) will be delivered to the treasurer of the state of Iowa by the plan administrator for safekeeping within five workdays following receipt. The certificate(s) will be retrieved from the treasurer of the state of Iowa when an arrangement has been made with a stockbroker for the sale of the stock.

d. An arrangement will be entered into between the plan administrator and a stockbroker as soon as administratively possible in order to liquidate the stock for cash. The broker shall retain commission fees according to the arrangement entered into from the value obtained at the time of sale. The employer will not realize a tax liability nor will the participating employees.

e. The proceeds of the sale of the stock, less the broker commission, shall be made payable to the company. Cash will be immediately credited to the participating employee's accounts by the company. The company shall credit each participating employee's accounts pro rata based on the allotted shares per contract, and the plan administrator will be provided with a listing of the dollar amount credited to each participating employee's accounts. The company will credit the accounts based on the printout provided to the plan administrator. A statement of this transaction will also be provided by the company to participating employees at their home addresses upon completion of crediting of the accounts. The funds will be remitted to the company on a separate warrant and day from normal contributions. The company will report the investment return credit to the plan administrator in a specified format and show the credit under the earnings column.

f. In the event that dividends are issued prior to the sale of the stock, the dividends will be returned to the company and the company will credit each eligible account with the correct dividend based on the pro-rata shares. The company will also provide a statement to the participating employees at their home addresses which shows the credit of the dividend. The plan administrator shall be provided with a printout which includes a participating employee's name, social security number, policy number, and dollars credited.

581—15.7(19A) Dependent care. The director administers the dependent care program for employees of the state of Iowa. The plan is permitted under I.R.C. Section 125. The plan is also a dependent care assistance plan under I.R.C. Section 129. Administration of the plan shall comply with all applicable federal regulations and the Summary Plan Document. For purposes of this rule, the plan year is a calendar year.

15.7(1) *Employee eligibility.* All nontemporary employees who work at least 1040 hours per calendar year are eligible to participate in the dependent care program. Temporary employees are not eligible to participate in this program.

15.7(2) *Enrollment.* An open enrollment period, as designated by the director, shall be held for employees who wish to participate in the plan. New employees may enroll within 30 calendar days following their date of hire. Employees also may enroll or change their existing dependent care deduction amounts during the plan year, provided they have a qualifying change in family status as defined in the Summary Plan Document. To continue participation, employees shall reenroll each year during the open enrollment period.

15.7(3) *Termination of participation in the plan.* An employee may terminate participation in the plan provided the employee has a qualifying change in family status as defined in the Summary Plan Document. Employees who have terminated state employment and are later rehired within the same plan year cannot reenroll in the dependent care program until the subsequent plan year.

581—15.8(19A) Premium conversion plan (pretax program). The director administers the premium conversion plan for employees of the state of Iowa. The plan is permitted under I.R.C. Section 125. Pursuant to I.R.C. Section 105, the plan is also an insured health care plan to the extent that participants use salary reduction to pay for health or dental insurance premiums. In accordance with I.R.C. Section 79, the plan is also a group-term life insurance plan to the extent that salary reduction is used for life insurance premiums. Administration of the plan shall comply with all federal regulations and the Summary Plan Document. For purposes of this rule, the plan year is January 1 to December 31 of each year.

15.8(1) *Employee eligibility.* All nontemporary employees who work at least 1040 hours per calendar year are eligible to participate in the pretax conversion plan. Temporary employees are not eligible to participate in the plan.

15.8(2) *Enrollment.* An open enrollment period, as designated by the director, shall be held for employees who wish to make changes in their current pretax status. New employees will automatically be enrolled in the plan after satisfying any waiting period requirements for group insurance unless a change form is submitted. Employees also may change their existing pretax status during the plan year if they have a qualifying change in family status as defined in the Summary Plan Document.

15.8(3) *Termination of participation in the plan.* An employee may terminate participation in the plan during an open enrollment period. Otherwise, an employee may terminate participation if the employee has a qualifying change in family status as defined in the Summary Plan Document. Employees who have terminated state employment and are later rehired within the same plan year cannot reenroll in the pretax conversion plan until the subsequent plan year.

581—15.9(19A) Interviewing and moving expense reimbursement.

15.9(1) *Interviewing expenses.* If approved by the appointing authority, a person who interviews for state employment shall be reimbursed for expenses incurred in order to interview at the same rate at which an employee would be reimbursed for expenses incurred during the performance of state business.

15.9(2) *Moving expenses for reassigned employees.* A state employee who is reassigned or transferred at the direction of the appointing authority shall be reimbursed for moving and related expenses in accordance with the policies of the director or the applicable collective bargaining agreement. Eligibility for payment shall occur when all of the following conditions exist:

a. The employee is reassigned at the direction of the appointing authority;

b. The reassignment constitutes a permanent change in duty station beyond 25 miles;

c. The reassignment results in the employee changing the place of residence in order to be living within 25 miles of the new duty station, unless prior approval otherwise has been obtained from the director; and

d. The reassignment is not primarily for the benefit of the employee.

15.9(3) *Moving expenses for newly hired employees.* If approved by the appointing authority, a person newly hired may be reimbursed for moving and related expenses at the same rates used for the reimbursement of a current employee who has been reassigned or transferred. Reimbursement shall not occur until the employee is on the payroll.

15.12(12) *Forfeiture.* Section 403(b)(1)(c) of the IRC provides that an employee's interest in a Section 403(b) contract is nonforfeitable, except for failure to pay future premiums.

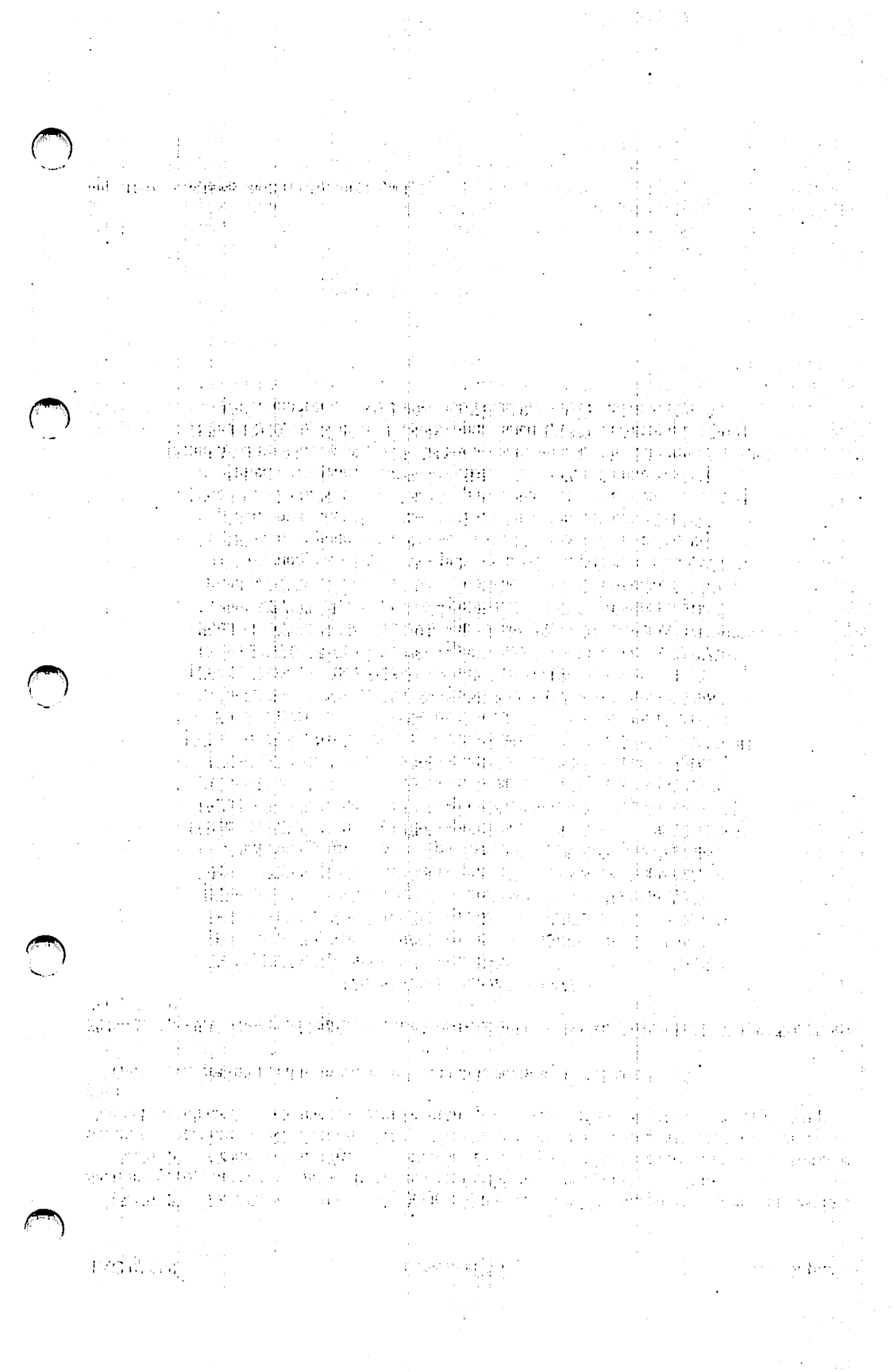
15.12(13) *Nontransferability.* The interest of the employee in the contract is nontransferable within the meaning of IRC Section 401(g). The contract may not be sold, assigned, discounted, or pledged as collateral for a loan or as security for the performance of an obligation or for any other purpose.

These rules are intended to implement Iowa Code sections 19A.1 and 19A.9.

581—15.13(19A) Deferred compensation (post-August 31, 1997). Rescinded IAB 1/13/99, effective 2/17/99.

[Filed 6/26/75; amended 8/4/75]
[Filed 9/13/76, Notice 6/14/76—published 10/6/76, effective 11/15/76]
[Filed 8/14/80, Notice 7/9/80—published 9/3/80, effective 10/8/80]
[Filed 7/16/82, Notice 6/9/82—published 8/4/82, effective 9/30/82]
[Filed 5/19/83, Notice 4/13/83—published 6/8/83, effective 7/13/83]
[Filed 12/27/85, Notice 11/20/85—published 1/15/86, effective 2/19/86]
[Filed emergency 8/15/86—published 9/10/86, effective 8/15/86]
[Filed 10/17/86, Notice 8/13/86—published 11/5/86, effective 12/10/86]
[Filed 7/24/87, Notice 6/17/87—published 8/12/87, effective 9/16/87]
[Filed 2/18/88, Notice 1/13/88—published 3/9/88, effective 4/13/88]
[Filed 4/29/88, Notice 3/9/88—published 5/18/88, effective 7/1/88]
[Filed 10/27/88, Notice 9/21/88—published 11/16/88, effective 12/21/88]
[Filed emergency 12/14/88—published 1/11/89, effective 12/21/88]
[Filed 3/29/89, Notice 2/8/89—published 4/19/89, effective 5/26/89]
[Filed 9/29/89, Notice 8/23/89—published 10/18/89, effective 11/24/89]
[Filed 2/1/90, Notice 12/13/89—published 2/21/90, effective 3/30/90]
[Filed 11/20/91, Notice 8/21/91—published 12/11/91, effective 1/17/92]
[Filed 3/27/92, Notice 2/5/92—published 4/15/92, effective 5/20/92]
[Filed 3/26/93, Notice 2/17/93—published 4/14/93, effective 5/19/93]
[Filed emergency 12/17/93—published 1/5/94, effective 12/17/93]
[Filed emergency 6/16/95—published 7/5/95, effective 7/1/95]
[Filed emergency 3/15/96—published 4/10/96, effective 3/15/96]
[Filed 12/12/96, Notice 10/23/96—published 1/15/97, effective 2/19/97]
[Filed emergency 8/8/97—published 8/27/97, effective 8/8/97]
[Filed 3/20/98, Notices 8/27/97, 2/11/98—published 4/8/98, effective 5/13/98]
[Filed 12/23/98, Notice 11/18/98—published 1/13/99, effective 2/17/99]
[Filed emergency 8/12/99—published 9/8/99, effective 8/12/99]

NOTE: First 6 lines of history, see Comptroller, State[270]ch 4



CHAPTER 17
PUBLIC RECORDS AND FAIR INFORMATION PRACTICES
[Prior to 11/5/86, Merit Employment Department[570]]

581—17.1(19A) Definitions. As used in this chapter:

"Confidential record" means a record which is not available as a matter of right for examination and copying by members of the public under applicable provisions of law. Confidential records include records or information contained in records that the agency is prohibited by law from making available for examination by members of the public, and records or information contained in records that are specified as confidential by Iowa Code section 22.7, or other provision of law, but that may be disclosed upon order of a court, authorization to the custodian of the record, or by another person duly authorized to release the record. Mere inclusion in a record of information declared confidential by an applicable provision of law does not necessarily make that entire record a confidential record.

"Custodian" means the director or designee. The custodian of the employee payroll record system described in subrule 17.14(2) is the director of the department of personnel or the director's designee for those parts under the jurisdiction of the department of personnel and the director of the department of revenue and finance or the director's designee for those parts under the jurisdiction of the department of revenue and finance.

"Department" means the Iowa department of personnel.

"Open record" means a record other than a confidential record.

"Personally identifiable information" means information about or pertaining to an individual in a record which identifies the individual and which is contained in a record system under the jurisdiction of the department.

"Record" means all or part of a "public record" as defined in Iowa Code section 22.1 that is owned by or in the physical possession of the department.

"Record system" means any group of records under the jurisdiction of the department from which a record may be retrieved by a personal identifier such as the name of the individual, number, symbol or other unique retriever assigned to the individual.

581—17.2(19A) Statement of policy, purpose and scope. The purpose of this chapter is to facilitate public access to open records. It also seeks to facilitate department determinations with respect to the handling of confidential records and the implementation of the fair information practices Act. This chapter implements Iowa Code section 22.11 by establishing rules, policies, and procedures for the maintenance of employee, applicant, and other records in the possession of and under the jurisdiction of the department. Employee payroll records are jointly under the jurisdiction of the department of personnel and the department of revenue and finance and are governed by the rules, policies and procedures of that jurisdiction. In both instances these include but are not limited to, access to records, requests for confidential treatment of records, procedures for having additions, dissents or objections entered into records, collection, disclosure, and retention of records, notices to suppliers of information and the release of records.

581—17.3(19A) Requests for access to records.

17.3(1) *Location of records.* A request for access to a record under the jurisdiction of the department shall be directed to the office where the record is kept. Requests for access to records pertaining to the Iowa public employees' retirement system shall be directed to the IPERS Division at 600 East Court Avenue, Des Moines, Iowa 50319-0154. If the location of the record is not known by the requester, the request shall be directed to the Iowa Department of Personnel, East 14th Street at Grand Avenue, Des Moines, Iowa 50319-0150. The department will forward the request appropriately. If a request for access to a record is misdirected, department personnel will forward the request to the appropriate person within the department.

17.3(2) *Office hours.* Records shall be made available during all customary office hours which are from 8 a.m. to 4:30 p.m. on those days that state offices are open.

17.3(3) *Request for access.* Requests for access to open records may be in writing, by telephone or in person. Requests shall identify the particular records sought by name or other personal identifier and description in order to facilitate the location of the record. Requests shall include the name and address of the person requesting the information. A person shall not be required to give a reason for requesting an open record.

Requests for access to record systems described in rule 581—17.14(19A) are to be submitted to the department with the following exception. Requests for access to the employee payroll record system described in subrules 17.2(1) and 17.14(2) under the joint jurisdiction of the department of personnel and the department of revenue and finance shall be submitted to either department in accordance with their respective jurisdiction.

17.3(4) *Response to requests.* The custodian of records under the jurisdiction of the department is authorized to grant or deny access to a record according to the provisions of this chapter and directions from the department. The decision to grant or deny access may be delegated to one or more designated employees.

Access to an open record shall be granted upon request. Unless the size or nature of the request requires time for compliance, the request shall be responded to as soon as feasible. However, access to an open record may be delayed for one of the purposes authorized by Iowa Code subsection 22.8(4) or 22.10(4). The custodian shall inform the requester of the reason for the delay and an estimate of the length of that delay and, upon request, shall provide a written reply.

The custodian of a record may deny access to the record by members of the public only on the grounds that a denial is warranted under Iowa Code subsection 22.8(4) or subsection 22.10(4), or that it is a confidential record, or that its disclosure is prohibited by a court order. Access by members of the public to a confidential record is limited by law and, therefore, may generally be provided only in accordance with the provisions of rule 581—17.4(19A) and other applicable provisions of law.

17.3(5) *Security of records.* No person shall, without permission, search or remove any record from the office in which it is located. Examination and copying of records shall be done under supervision. Records shall be protected from damage and disorganization.

17.3(6) *Copying.* A reasonable number of copies may be made unless printed copies are available. If copying equipment is not available in the office where an open record is kept, the custodian shall permit its examination in that office and shall arrange to have copies made elsewhere subject to costs.

17.3(7) *Fees.*

a. When charged. The agency is authorized to charge fees in connection with the examination or copying of records in accordance with Iowa Code section 22.3. To the extent permitted by applicable provisions of law, the payment of fees may be waived when the imposition of fees is inequitable or when a waiver is in the public interest.

b. Copying and postage costs. Price schedules for regularly published records and for copies of records supplied by the agency shall be posted in the agency. Copies of records may be made by or for members of the public at cost, as determined by and posted in the agency. A charge assessed to a current employee for copies of records in the employee's own official personnel file shall not exceed $5 per request. When the mailing of copies of records is requested, the actual costs of mailing may also be charged to the requester.

c. Search and supervisory fee. A fee may be charged for actual expenses in searching for, compiling, and supervising the examination and copying of requested records. The fee shall be based on the hourly rate of pay of a department employee who ordinarily would be appropriate and suitable to perform this function and shall be posted in the department. No fee shall be charged if the records are not made available for inspection. The requester shall be given advance notice if it will be necessary to charge a higher hourly rate than that set in order to find or supervise the particular records in question, and shall indicate the amount of that higher hourly rate to the requester.

d. Advance payments.

(1) When the estimated fee chargeable under this subrule exceeds $25, the requester may be required to make an advance payment of the estimated fee. Upon completion, the actual fee will be calculated and the difference refunded or collected.

(2) When a requester has previously failed to pay a fee charged under this subrule, full advance payment of future estimated fees of any amount may be required before processing a new or pending request for access to records from that requester.

581—17.4(19A) Access to confidential records. Under Iowa Code section 22.7 or other applicable provisions of law, the custodian may disclose certain confidential records to members of the public. Other provisions of law authorize or require the custodian to release specified confidential records under certain circumstances or to particular persons. In requesting the custodian to permit the examination or copying of a confidential record, the following procedures apply and are in addition to those specified for requests for access to records in subrule 17.3(3).

17.4(1) *Proof of identity.* A person requesting access to a confidential record shall be required to provide proof of identity satisfactory to the custodian.

17.4(2) *Requests.* A request to review a confidential record shall be on a form provided by the department. A person requesting access to a confidential record shall be required to sign a statement enumerating the specific grounds alleged to justify access and provide any proof necessary to establish relevant facts.

17.4(3) *Notice to subject of record and opportunity to obtain injunction.* After the custodian receives a request for access to a confidential record, and before the custodian releases that record, the custodian shall make reasonable efforts to notify any person who is a subject of that record, is identified in that record, and whose address or telephone number is contained in that record. The custodian shall give the subject of that confidential record to whom notification is transmitted a reasonable opportunity to seek an injunction under Iowa Code section 22.8, and indicate to the subject of that record the specified period of time during which disclosure will be delayed for that purpose.

17.4(4) *Request denied.* When the custodian denies a request for access to a confidential record, in whole or in part, the custodian shall notify the requester in writing. The denial shall be signed by the custodian of the record and shall include:

a. The name and title of the person responsible for the denial; and

b. A brief citation to the statute or other provision of law which prohibits disclosure of the record; or

c. A brief citation to the statute vesting discretion in the custodian to deny disclosure of the record and a brief statement of the reasons for the denial to the requester.

17.4(5) *Request granted.* When the custodian grants a request for access to a confidential record to a particular person, the custodian shall notify that person and indicate any lawful restrictions imposed by the custodian on that person's examination and copying of the record.

581—17.5(19A) Requests for treatment of a record as a confidential record and its withholding from examination. The custodian may treat a record as a confidential record and withhold it from examination only to the extent that the custodian is authorized by Iowa Code section 22.7, another applicable provision of law, or a court order, to refuse to disclose that record to members of the public.

17.5(1) *Persons who may request.* Any person who would be aggrieved or adversely affected by disclosure of all or a part of a record under the jurisdiction of the department to members of the public and who asserts that Iowa Code section 22.7, another applicable provision of law, or a court order, authorizes the custodian to treat the record as a confidential record, may file a request, as provided for in this rule, for its treatment as a confidential record and to withhold it from public inspection. Failure of a person to request confidential record treatment for all or part of a record does not preclude the department from designating it and treating it as a confidential record.

17.5(2) *Request.* A request for the treatment of a record as a confidential record shall be in writing and shall be filed with the director. The request shall include an enumeration of the specific reasons justifying confidential record treatment for all or part of that record, the specific provisions of law that authorize confidential record treatment in this instance, and the name and mailing address of the person authorized to respond to any action concerning the request. The person requesting treatment of a record as a confidential record may also be required to sign a certified statement or affidavit enumerating the specific reasons justifying the treatment of the record as a confidential record and to provide any proof necessary to establish relevant facts. The person filing a request shall, if possible, accompany the request with a copy of the record in question from which those portions have been deleted for which confidential record treatment has been requested. If the original record is submitted at the same time the request is filed, the person shall indicate conspicuously on the original record which portions of it are requested to be confidential. Requests for treatment of all or portions of a record as confidential for a limited time period shall also specify the precise period of time for which confidential record treatment is requested.

17.5(3) *Failure to request.* Failure of a person to request confidential record treatment for a record shall not preclude the custodian from treating it as a confidential record. If a person who has submitted information does not request confidential record treatment under the provisions of Iowa Code sections 22.7(3) and 22.7(6) for all or part of that information it may be assumed that the person has no objection to its public disclosure.

17.5(4) *Timing of decision.* A decision by the department with respect to the disclosure of all or part of a record under its jurisdiction to members of the public may be made when a request for its treatment as a confidential record is filed or when a request is received for access to the record by a member of the public.

17.5(5) *Request granted or deferred.* If a request for confidential record treatment is granted, or if action on a request is deferred, a copy of the record from which the material in question has been deleted and a copy of the decision to grant the request or to defer action on the request will be placed in the file in addition to the original record, and will be made available for publication. If a request is subsequently received for access to the original record, reasonable and timely efforts will be made to notify any person who has filed a request for its treatment as a confidential record.

17.5(6) *Request denied and opportunity to seek injunction.* If a request that a record be treated as a confidential record and be withheld from public inspection is denied, the custodian shall notify the requester in writing of the reasons for that determination. On application by the requester, the custodian may engage in a good faith, reasonable delay in allowing examination of the record so that the requester may seek injunctive relief under the provisions of Iowa Code section 22.8, or other applicable provision of law. However, a record shall not be withheld from public inspection for any period of time if the custodian determines that the requester had no reasonable grounds to justify the treatment of that record as a confidential record. The custodian shall notify requester in writing of the time period allowed to seek injunctive relief or the reasons for the determination that no reasonable grounds exist to justify the treatment of that record as a confidential record. The custodian may extend the period of good faith, reasonable delay in allowing examination of the record so that the requester may seek injunctive relief only if no request for examination of that record has been received, or if a court directs the custodian to treat it as a confidential record, or to the extent permitted by another applicable provision of law, or with the consent of the person requesting access.

581—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. Except as otherwise provided by law, the subject of a record may file a request with the custodian to review and to have the right to have a written statement of additions, dissents, or objections entered into a record under the jurisdiction of the department. However, this does not authorize a person who is a subject of a record to alter the original copy of the record or to expand the official record of a department proceeding. The subject shall send the request to review a record or the written statement of additions, dissents or objections to the department. Statements pertaining to the Iowa public employees' retirement system shall be sent to that office. The statement must be dated and signed by the subject, and shall include the current mailing address of the subject or the subject's representative.

581—17.7(19A) Consent to disclosure by the subject of a confidential record. The subject of a confidential record under the jurisdiction of the department may consent to disclosure to a third party of that portion of the record concerning the subject except as provided in subrule 17.12(1). The consent must be in writing and must identify the particular record that may be disclosed, the particular person or class of persons to whom the record may be disclosed, and, where applicable, the time period during which the record may be disclosed. The subject and, where applicable, the person to whom the record is to be disclosed, must provide proof of identity.

581—17.8(19A) Notice to suppliers of information. When a person is requested to supply information about that person that will become part of a record under the jurisdiction of the department, that person shall be notified of the use that will be made of the information, which persons outside the department might routinely be provided the information, which parts of the requested information are required and which are optional, and the consequences of not providing the information requested. This notice may be given in rules, on the written form used to collect the information, on a separate fact sheet or letter, in brochures, in formal agreements, in contracts, in handbooks, in manuals, verbally, or by other appropriate means.

581—17.9(19A) Disclosures without the consent of the subject.

17.9(1) Open records shall be routinely disclosed without the consent of the subject.

17.9(2) To the extent allowed by law, disclosure of confidential records may occur without the consent of the subject. Following are instances where disclosure, if lawful, will generally occur without notice to the subject:

a. For a routine use as defined in rule 581—17.10(19A) or in the notice for a particular record system.

b. To a recipient who has provided advance written assurance that the record will be used solely as a statistical research or reporting record, provided that the record is transferred in a form that does not identify the subject.

c. To another government agency or to an instrumentality of any government jurisdiction within or under the control of the United States for a civil or criminal law enforcement activity if the activity is authorized by law, and if the head of the government agency or instrumentality has submitted a written request to the custodian specifying the record desired and the law enforcement activity for which the record is sought.

d. To an individual following a showing of compelling circumstances affecting the health or safety of any individual if a notice of the disclosure is transmitted to the last known mailing address of the subject.

e. To the legislative fiscal bureau under Iowa Code section 2.52.

f. Disclosures in the course of employee disciplinary proceedings.

g. In response to a court order or subpoena.

581—17.10(19A) Routine use.

17.10(1) Defined. "Routine use" means the disclosure of a record, without the consent of the subject or subjects, for a purpose which is compatible with the purpose for which the record was collected. It includes disclosures required to be made by statute other than the public records law, Iowa Code chapter 22.

17.10(2) To the extent allowed by law, the following uses are considered routine uses of all records under the jurisdiction of the department:

a. Disclosure to officers, employees and agents of the department who have a need for the record in the performance of duties. The director shall resolve disputes concerning what constitutes legitimate need to use confidential or exempt records.

b. Disclosure of information indicating an apparent violation of the law to appropriate law enforcement authorities for investigation and possible criminal prosecution, civil court action, or regulatory order.

c. Disclosure to the department of inspections and appeals for matters in which it is performing services or functions on behalf of an agency.

d. Transfers of information within an agency, to other state agencies, or to local units of government as appropriate to administer the program for which the information is collected.

e. Information released to staff of federal, state, or other governmental entities for audit purposes or for purposes of determining whether an agency is operating a program lawfully.

f. Any disclosure specifically authorized by the statute under which the record was collected or maintained.

g. Distribution of lists of state employees to other than governmental entities.

h. Distribution of seniority lists to unions.

i. Disclosure to officers, employees and agents of the department who need to use the record to determine the named beneficiary when a wage earner or retiree dies; to maintain a record of wages reported and quarters worked for computation of benefits; to track benefits received; to recompute and adjust benefits; to update information for electronic deposit of benefits; to audit payroll reports; and to verify quarterly update of wages paid.

581—17.11(19A) Consensual disclosure of confidential records.

17.11(1) *Consent to disclosure by a subject individual.* The subject may consent in writing to disclosure of confidential records as provided in rule 581—17.7(19A).

17.11(2) *Complaints to public officials.* A letter from a subject of a confidential record to a public official that seeks the official's intervention on behalf of the subject in a matter that involves a record under the jurisdiction of the department may be treated as an authorization to release sufficient information about the subject to the official to resolve the matter.

17.11(3) *Obtaining information from a third party.* The department may be required to obtain information to establish eligibility for insurance, coordinate benefits, verify applicant and employee information or to provide other services. Requests to third parties for this information may involve the release of confidential identifying information about individuals contained in records under the jurisdiction of the department. Such requests are within the meaning of routine use as defined in rule 581—17.10(19A) and shall not require authorization from the subject of the record.

581—17.12(19A) Release to subject.

17.12(1) Records shall be released to the subject of a confidential record upon a written request. The department need not release the following records or information to the subject:

a. The identity of a person providing information when the information is authorized to be held confidential pursuant to Iowa Code section 22.7(18).

b. Records that are the work products of an attorney or are otherwise privileged.

c. Peace officers' criminal investigative reports except as required by the Iowa Code. See Iowa Code section 22.7(5).

d. As otherwise authorized by law.

17.12(2) Where a record has multiple subjects with interest in the confidentiality of the record, reasonable steps shall be taken to protect confidential information relating to other subjects in the record.

581—17.13(19A) Availability of records.

17.13(1) *Open records.* Records under the jurisdiction of the department are open for public inspection and copying unless otherwise provided by these rules.

17.13(2) *Confidential records.* The following records under the jurisdiction of the department may be withheld from public inspection. Records are listed by category, according to the legal basis for withholding them from public inspection.

a. Sealed bids received prior to the time set for public opening of bids. See Iowa Code section 72.3.

b. Tax records made available to the department. See Iowa Code sections 422.17 and 422.20.

c. Records which are exempt from disclosure under Iowa Code section 22.7.

d. Minutes of closed meetings of a government body under Iowa Code section 21.5(4).

e. Identifying details in final orders, decisions and opinions to the extent required to prevent a clearly unwarranted invasion of personal privacy or trade secrets under Iowa Code section 17A.3(1)*"d."*

f. Those portions of staff manuals, examination materials, instructions or other statements issued which set forth criteria or guidelines to be used in auditing, in making inspections, in settling commercial or labor disputes or negotiating commercial or labor contract arrangements, or in the selection or handling of cases, such as operational tactics or allowable tolerances or criteria for the defense, prosecution or settlement of cases, when disclosure of these statements would:

(1) Enable law violators to avoid detection; or

(2) Facilitate disregard of requirements imposed by law; or

(3) Give a clearly improper advantage to persons who are in an adverse position to the department. See Iowa Code sections 17A.2 and 17A.3.

g. Records which constitute attorney work product, attorney-client communications, or which are otherwise privileged. Attorney work product is confidential under Iowa Code sections 22.7(4), 622.10 and 622.11, Iowa R.C.P. 122(c), Fed. R. Civ. P. 26(b)(3), and case law. Attorney-client communications are confidential under Iowa Code sections 622.10 and 622.11, the rules of evidence, the Code of Professional Responsibility, and case law.

h. Any other records made confidential by law.

17.13(3) *Authority to release confidential records.* The department may disclose some confidential records which are exempt from disclosure under Iowa Code section 22.7 or other law. Any person may request permission to inspect particular records withheld from inspection as confidential records. If it is initially determined that records will be released, reasonable efforts will be made, where appropriate, to notify interested persons and the records may be withheld from inspection for up to ten days to allow interested persons to seek injunctive relief.

581—17.14(19A) Personally identifiable information. This rule describes the nature and extent of personally identifiable information which is collected, maintained, and retrieved by personal identifier in record systems defined in rule 581—17.1(19A). For each record system, this rule describes the legal authority for the collection of that information and the means of storage of that information, and indicates whether a data processing system matches, collates, or permits the comparison of personally identifiable information in one record system with personally identifiable information in another record system. Record systems under the jurisdiction of the department that are retrievable through the use of personal identifiers are described as follows:

17.14(1) *Personnel files and records.* Personnel files are maintained by the department, the employee's appointing authority, and by the employee's supervisors. An employee may have several files depending on the purpose of the file and the records maintained within the file. Personnel files consist of records that concern individual state employees and their families, as well as applicants for state employment. Personnel files contain personal, private, and otherwise confidential records on or related to preemployment information including information gathered during background screenings to determine an applicant's suitability for employment; preemployment test scores; employee assistance program participation; wellness program participation; pre-tax programs; health, dental, life, and long-term disability insurance; benefit elections and miscellaneous benefit documents; medical information on the employee or a member of the employee's immediate family; medical information to support the employee's sick leave usage and fitness for duty determinations; position description questionnaires; investigations incident to the employee's employment, information related to disciplinary actions; complaints, grievances, and appeals; performance planning and evaluation; training; deferred compensation; workers' compensation; and other information incident to the employment of individuals. These records are collected in accordance with Iowa Code chapters 19A, 19B, 20, 70A, 85, 85A, 85B, 91A, and 509A. These records are confidential records under Iowa Code section 22.7(11) and other law because the information in the record is private and personal, the disclosure of which would likely result in an unwarranted invasion of the privacy of the subject of the record or the subject's family. It is unlikely that the personal and private information in these records can be separated from otherwise releasable information without identifying the subject or the subject's family. These records contain names, social security numbers and other identifying numbers, and are collected in the form of paper, microfilm, tape, and computer records. Computer records permit the comparison of personally identifiable information in one record system with that in another system.

17.14(2) *Employee payroll records.* The payroll records system consists of records that concern individual state employees and their families. This system contains information on workers' compensation; health, dental, life, and long-term disability insurance; qualified domestic relations orders, charitable contributions, garnishments; pay and benefits; equal employment opportunity; training; deferred compensation; and other information incident to the employment of individuals. Records under the jurisdiction of the department are collected in accordance with Iowa Code chapters 19A, 19B, 20, 70A, 85, 85A, 85B, 91A, and 509A, and are confidential records in part under Iowa Code section 22.7 and other law. These records contain names, social security numbers, and other identifying numbers, and are collected in the form of paper, microfilm, tape, and computer records. Computer records permit the comparison of personally identifiable information in one record system with that in another system.

17.14(3) *Public safety peace officers' retirement, accident and disability system.* This system consists of records that concern individual state employees and their families who are covered by the public safety peace officers' retirement, accident and disability system. Records are collected in accordance with Iowa Code chapters 19A and 97A and are confidential records in part under Iowa Code section 22.7 and other law. These records contain names, social security numbers, and other identifying numbers, and are collected in the form of paper, microfilm, tape, and computer records. Computer records permit the comparison of personally identifiable information in one record system with that in another system.

17.14(4) *Iowa public employees' retirement system.* This system consists of records that concern individual state employees and their families who are covered by the Iowa public employees' retirement system. Records are collected in accordance with Iowa Code chapters 19A and 97B and are confidential records in part under Iowa Code section 22.7 and other law. These records contain names, social security numbers, and other identifying numbers, and are collected in the form of paper, microfilm, tape, and computer records. Computer records permit the comparison of personally identifiable information in one record system with that in another system.

17.14(5) *Contracts.* These are records pertaining to training, consultants, and other services. These records are collected in accordance with Iowa Code chapters 19A and 19B and are confidential records in part under Iowa Code section 22.7. These records contain names, social security numbers, and other identifying numbers, and are collected in the form of paper, microfilm, tape, and computer records. Computer records permit the comparison of personally identifiable information in one record system with that in another system.

17.14(6) *Releasable information on state employees.* The following information that is maintained in the state payroll system or personnel file shall be released to the public without the consent of the employee because the information is not considered to be confidential information:

a. The name and compensation paid to the state employee.

b. The date the state employee was employed by state government.

c. The positions the state employee holds or has held with state government.

d. The state employee's qualifications for the position that the state employee holds or has held, including, but not limited to, educational background and work experience.

581—17.15(19A) Other groups of records routinely available for public inspection. This rule describes groups of records maintained by the department other than those record systems retrieved by individual identifiers as defined in rule 581—17.1(19A). These records are routinely available to the public subject to costs. However, these records may contain confidential information. In addition, the records listed in subrules 17.15(1) to 17.15(4), 17.15(6), and 17.15(9) may contain information about individuals. All records may be stored on paper, microfilm, tape or in automated data processing systems unless otherwise noted.

17.15(1) Rule making. Rule-making records may identify individuals making written or oral comments on proposed rules. This information is collected pursuant to Iowa Code section 17A.4.

17.15(2) Board and commission records. Agendas, minutes, and materials presented to boards and commissions within the department are available from the department except those records concerning closed sessions which are exempt from disclosure under Iowa Code section 21.5(4) or which are otherwise confidential by law. These records may identify individuals who participate in meetings. This information is collected pursuant to Iowa Code section 21.3.

17.15(3) Publications. News releases, annual reports, final project reports, department newsletters, and brochures describing various programs are available from the department.

17.15(4) Department news releases, final project reports, and newsletters may contain information about individuals, including staff or members of boards or commissions.

17.15(5) Statistical reports. Periodic reports of activity for various department programs are available from the department.

17.15(6) Appeal decisions and advisory opinions. All final orders, decisions and opinions are open to the public except for information that is confidential according to rule 581—17.5(19A) or subrule 17.13(2). These records, collected under the authority of Iowa Code chapters 19A, 19B, 20, 70A, 85, 85A, 85B, 91A, 97A, 97B, 97C, and 509A may contain confidential information about individuals.

17.15(7) Published materials. The department uses many legal and technical publications in its work. The public may inspect these publications upon request. Some of these materials may be protected by copyright laws.

17.15(8) Policy manuals. The department's manuals containing the policies and procedures for programs administered by the department are available at the offices of the department.

17.15(9) Administrative records. These are records related to the budgets of the department, the requisition of equipment and supplies, the payment of claims, and other accounting functions as well as records kept by the investments section of the IPERS division, including information on investment policies and portfolios. The records are partially confidential under Iowa Code section 22.7.

17.15(10) All other records not exempted from disclosure by law.

581—17.16(19A) Comparison of data processing systems. All data processing systems used by the department permit the comparison of personally identifiable information in one record system with personally identifiable information in another record system.

581—17.17(19A) Applicability. This chapter does not:

17.17(1) Require the indexing or retrieval of records which contain information about individuals by that person's name or other personal identifier.

17.17(2) Make records available to the general public which would otherwise not be available under the public records law, Iowa Code chapter 22.

17.17(3) Govern the maintenance or disclosure of, notification of, or access to, records in the possession of the department which are under the jurisdiction of another agency.

17.17(4) Apply to grantees, including local governments or their subdivisions, administering state-funded programs unless otherwise provided by law or agreement.

17.17(5) Make available records compiled in reasonable anticipation of court litigation or formal administrative proceedings. The availability of those records to the general public or to any individual or party to litigation or proceedings shall be governed by applicable legal and constitutional principles, statutes, rules of discovery, evidentiary privileges, and applicable regulations of the department.

581—17.18(19A) Agency records.

17.18(1) Each agency shall maintain a file of personnel records on each employee and each applicant for employment as specified by the department in rule or policy. All employee and applicant records are under the jurisdiction of the department.

17.18(2) The appointing authority shall give each employee copies of all materials placed in the employee's file unless determined otherwise by the department. The appointing authority shall provide copies of records to the department as requested.

17.18(3) When an employee is transferred, promoted or demoted from one agency to another agency the employee's personnel records shall be sent to the receiving appointing authority by the former appointing authority.

17.18(4) The director shall prescribe the forms to be used for collecting and recording information on employees and applicants for employment, as well as the procedures for the completion, processing, retention, and release of those forms and records, as well as the information contained on them.

[Filed 6/9/70]
[Filed 1/2/81, Notice 10/1/80—published 1/21/81, effective 2/25/81]
[Filed 12/3/82, Notice 10/13/82—published 12/22/82, effective 1/26/83*]
[Filed 3/22/85, Notice 10/24/84—published 4/10/85, effective 5/15/85]
[Filed 10/17/86, Notice 8/13/86—published 11/5/86, effective 12/10/86]
[Filed 4/29/88, Notice 3/9/88—published 5/18/88, effective 7/1/88]
[Filed 2/1/91, Notice 12/12/90—published 2/20/91, effective 3/29/91]
[Filed 8/12/99, Notice 6/16/99—published 9/8/99, effective 10/13/99]

*Effective date of subrule 17.1(2) delayed 70 days by Administrative Rules Review Committee. Delay lifted by Committee on 2/8/83. See details following chapter analysis.

CHAPTER 19
GENERAL ADMINISTRATION
[Prior to 11/5/86, Merit Employment Department [570]]

581—19.1(19A) State system of personnel. The state system of personnel administration is established by Iowa Code chapter 19A. The operational unit of the system is the department of personnel. The department of personnel is divided into two divisions, the personnel division and the IPERS division. Specific powers and duties of the department, its director, boards, task forces, advisory panels, and employees are set forth in Iowa Code chapters 19A, 19B, 20, 70A, 97A, 97B, 97C, and 509A; and these administrative rules.

19.1(1) Operational entities within the department are responsible for programs that include the development and administration of policies and procedures governing employee compensation (salaries and wages); benefit programs, including health, life, dental and disability insurance, unemployment and workers' compensation and deferred compensation and annuities; audit of payroll and other personnel transactions; professional personnel services to state departments; the communication of employment and personnel information to employees and supervisors throughout state government; the development and administration of policies and procedures concerning the recruitment, testing, and certification of personnel seeking employment or promotion; equal employment opportunity and affirmative action; and employee assistance, education, and training.

Responsibilities of the public employee retirement division include the development and administration of policies and procedures relative to the collection, disbursement, and investment of funds contributed to the retirement system by employers and employee members.

19.1(2) The director may establish other offices staffed by employees of the executive branch agencies in which they are employed to carry out the personnel management functions of the state personnel system. The functions performed and the services provided by these offices as well as the staff assigned to perform these functions are subject to policies set by the director.

19.1(3) The director has the statutory authority to designate an employee of the department to carry out the powers and duties of the director in the absence of, or the inability of the director to do so.

19.1(4) Information requests, materials submissions or inquiries concerning any operation or function of the department shall be addressed to the Director, Iowa Department of Personnel, Grimes State Office Building, East Fourteenth Street at Grand Avenue, Des Moines, Iowa 50319-0150. Telephone inquiry to the department may be made through listings provided in the City of Des Moines telephone directory or the Iowa Capitol Complex telephone directory.

19.1(5) Rescinded IAB 9/8/99, effective 10/13/99.

581—19.2(17A) Petition for declaratory order. Any person may file a petition with the department for a declaratory order as to the applicability to specified circumstances of a statute, rule, or order within the primary jurisdiction of the department, at Department of Personnel, Grimes Building, 400 East 14th Street, Des Moines, Iowa 50319. A petition is deemed filed when it is received by that office. The department shall provide the petitioner with a file-stamped copy of the petition if the petitioner provides the agency an extra copy for this purpose. The petition must be typewritten or legibly handwritten in ink and must substantially conform to the following form:

DEPARTMENT OF PERSONNEL

Petition by (Name of Petitioner) for a Declaratory Order on (Cite provisions of law involved).	}	PETITION FOR DECLARATORY ORDER

The petition must provide the following information:

1. A clear and concise statement of all relevant facts on which the order is requested.
2. A citation and the relevant language of the specific statutes, rules, policies, decisions, or orders, whose applicability is questioned, and any other relevant law.
3. The questions petitioner wants answered, stated clearly and concisely.
4. The answers to the questions desired by the petitioner and a summary of the reasons urged by the petitioner in support of those answers.
5. The reasons for requesting the declaratory order and disclosure of the petitioner's interest in the outcome.
6. A statement indicating whether the petitioner is currently a party to another proceeding involving the questions at issue and whether, to the petitioner's knowledge, those questions have been decided by, are pending determination by, or are under investigation by, any governmental entity.
7. The names and addresses of other persons, or a description of any class of persons, known by petitioner to be affected by, or interested in, the questions presented in the petition.

The petition must be dated and signed by the petitioner or the petitioner's representative. It must also include the name, mailing address, and telephone number of the petitioner and petitioner's representative and a statement indicating the person to whom communications concerning the petition should be directed.

581—19.3(17A) Notice of petition. Within 15 days after receipt of a petition for a declaratory order, the department shall give notice of the petition to all persons not served by the petitioner pursuant to rule 19.7(17A) to whom notice is required by any provision of law. The department may also give notice to any other persons.

581—19.4(17A) Intervention.

19.4(1) Persons who qualify under any applicable provision of law as an intervenor and who file a petition for intervention within 20 days of the filing of a petition for declaratory order shall be allowed to intervene in a proceeding for a declaratory order.

19.4(2) Any person who files a petition for intervention at any time prior to the issuance of an order may be allowed to intervene in a proceeding for a declaratory order at the discretion of the department.

581—19.16(19A) Drug use and drug tests.

19.16(1) *Policy.* Employees shall not report to work while under the influence of alcohol or illegal drugs. The unauthorized use, possession, sale, purchase, manufacture, distribution, or transfer of any illegal drug or alcoholic beverage while engaged in state business or on state property is prohibited. Employees who violate this policy are subject to disciplinary action up to and including discharge.

19.16(2) *Definition and applicability.*

a. "Drug test" means any blood, urine, saliva, chemical, or skin tissue test conducted for the purpose of detecting the presence of a chemical substance in an individual. These rules authorize only the use of urinalysis tests for this purpose. Other methods of drug testing are prohibited.

b. These rules do not apply to drug tests required under federal statutes, drug tests conducted pursuant to a nuclear regulatory commission policy statement, or drug tests conducted to determine if an employee is ineligible to receive workers' compensation under Iowa Code section 85.16, subsection 2.

19.16(3) *Preemployment drug tests.* A urinalysis drug test may be performed as part of a preemployment physical only for department of corrections correctional officer positions. Application materials for these positions shall include clear notice that a drug test is part of the preemployment physical. Requirements for these tests are as follows:

a. A urine sample will be collected during the preemployment physical examination.

b. The sample container will include identification for chain of custody purposes that does not include any part of the applicant's name or social security number.

c. The container will be transported directly from the site of the physical examination to a laboratory or other testing facility. Samples may be transported via certified mail or courier service.

d. The sample will be tested and retained by the laboratory or other testing facility for a minimum of 30 days. The applicant may have the sample analyzed, at the applicant's expense, by a laboratory or other testing facility approved in accordance with the administrative rules of the department of public health.

e. Each drug test will include an initial screen and a confirmation of positive results. The initial screening test may utilize immunoassay, thin layer, high performance liquid or gas chromatography, or an equivalent technology. If the initial test utilizes immunoassay, the test kit must meet the requirements of the Food and Drug Administration. All confirmation tests will be done by Gas Chromatography - Mass Spectrometry (GC-MS) at a laboratory or other testing facility approved in accordance with the administrative rules of the department of public health.

f. At a minimum, tests will screen for marijuana, cocaine, and amphetamines.

g. Procedures for obtaining, sealing, identifying, transporting, storing, and retention of samples shall protect the chain of custody and the viability of the sample, and shall comply with department of public health administrative rules.

h. The laboratory or other testing facility shall report the results of the drug tests to the appointing authority. The confidentiality of the information shall be protected by all parties.

i. The appointing authority shall provide an applicant an opportunity to rebut or explain the results of a positive drug test by administering a pretest questionnaire or arranging a posttest conference with the applicant.

j. A positive confirmation drug test will disqualify an applicant from further consideration and hire for department of corrections correctional officer positions.

19.16(4) *Employee drug tests.* Drug testing of employees is prohibited except as provided in subrule 19.5(2), paragraph *"b."*

These rules are intended to implement Iowa Code chapter 17A amended by 1998 Iowa Acts, chapter 1202.

[Filed 5/13/75]
[Filed 11/7/80, Notice 9/3/80—published 11/26/80, effective 12/31/80]
[Filed 3/22/85, Notice 10/24/84—published 4/10/85, effective 5/15/85]
[Filed 4/4/86, Notice 1/15/86—published 4/23/86, effective 5/28/86]
[Filed 10/17/86, Notice 8/13/86—published 11/5/86, effective 12/10/86]
[Filed 7/24/87, Notice 6/17/87—published 8/12/87, effective 9/16/87]
[Filed 2/18/88, Notice 1/13/88—published 3/9/88, effective 4/13/88]
[Filed 4/29/88, Notice 3/9/88—published 5/18/88, effective 7/1/88]
[Filed 10/27/88, Notice 9/21/88—published 11/16/88, effective 12/21/88]
[Filed 2/1/90, Notice 12/13/89—published 2/21/90, effective 3/30/90]
[Filed 5/14/99, Notice 3/10/99—published 6/2/99, effective 7/7/99]
[8/12/99, Notice 6/16/99—published 9/8/99, effective 10/13/99]

CHAPTER 3
LICENSURE TO PRACTICE
REGISTERED NURSE/LICENSED PRACTICAL NURSE

[Prior to 5/23/84, IAC, appeared as separate Chapters 3 and 4]
[Prior to 8/26/87, Nursing Board[590] Ch 3]

655—3.1(17A,147,152,272C) Definitions.

Accredited or approved nursing program. An accredited or approved nursing program means a nursing education program whose status has been recognized by the board or by a similar board in another state that prepares individuals for licensure as a licensed practical nurse, registered nurse, or registration as an advanced registered nurse practitioner; or grants a baccalaureate, master's, or doctorate degree with a major in nursing.

Applicant. Applicant means a person who is qualified to take the examination or apply for licensure.

Delinquent licensee. Delinquent licensee means a registered nurse/licensed practical nurse who has failed to renew the license or place it on inactive status as provided by subrule 3.7(5) by the fifteenth day of the month following the expiration date.

Endorsement. Endorsement means the process by which a registered nurse/licensed practical nurse licensed in another state becomes licensed in Iowa.

Examination. Examination means any of the tests used to determine minimum competency prior to the issuance of a registered nurse/licensed practical nurse license.

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

1. For the original license based on the registered nurse examination, $75.
2. For the original license based on the practical nurse examination, $75.
3. For a registered nurse/licensed practical nurse license by endorsement, $101.
4. For a certified statement that a registered nurse/licensed practical nurse is licensed in this state or registered as an advanced registered nurse practitioner, $25.
5. For reactivation of a license to practice as a registered nurse/licensed practical nurse, based on $27 per year, or any portion thereof, totals $81 for a license lasting more than 24 months up to 36 months.
6. For the renewal of a license to practice as a registered nurse/licensed practical nurse, $81 for a three-year period.
7. For a duplicate or reissued license/original certificate to practice as a registered nurse/licensed practical nurse, or registration card/original certification to practice as an advanced registered nurse practitioner, $20.
8. For a registered nurse/licensed practical nurse late renewal, $50, plus the renewal fee as specified in paragraph "6" of this rule.
9. For a registered nurse/licensed practical nurse delinquent license fee, $100, plus all renewal fees to date due, the total back renewal fees shall not exceed $250.

10. For a check returned for any reason, $15. If licensure/registration had been issued by the board office based on a check for the payment of fees and the check is later returned by the bank, the board shall request payment by certified check or money order. If the fees are not paid within two weeks of notification by certified mail of the returned check, the license/registration is no longer in effect. The licensee's status returns to what it would have been had this license/registration not been issued.

11. For a copy of the Law of Iowa as it Pertains to the Practice of Nursing, $2.

12. For a copy of the Iowa Administrative Code, Nursing Board[655], $2.

13. For a certified copy of an original document, $20.

14. Reserved.

15. For special licensure, $62.

16. For a subscription to Notices of Intended Action for the period July 1 to June 30, $25 or for the period January 1 to June 30, $12.50.

Inactive licensee. Inactive licensee means a registered nurse/licensed practical nurse who has requested to be placed on inactive status.

Lapsed license. A lapsed license means an expired license which is either late or delinquent.

Late licensee. Late licensee means a registered nurse/licensed practical nurse who has failed to renew the license or place it on inactive status as provided by subrule 3.7(5) by the expiration date on the license. The time between the expiration date and the fifteenth day of the month following the expiration date is considered a grace period or late period.

NCLEX. NCLEX means National Council Licensure Examination, the currently used examination.

Overpayment. Overpayment means any overpayment of fees less than $10 received by the board that shall not be refunded.

Reactivation. Reactivation means that process whereby an inactive licensee obtains a current license.

Reinstatement. Reinstatement means that process by which a delinquent licensee obtains a current license.

Temporary license. Temporary license means a license issued on a short-term basis for a specified time pursuant to subrule 3.5(3).

Verification. Verification means that process whereby the board will provide a certified statement that a registered nurse/licensed practical nurse is licensed, inactive, or lapsed, or an advanced registered nurse practitioner is registered in this state.

This rule is intended to implement Iowa Code section 147.80.

655—3.2(17A,147,152,272C) Mandatory licensure.

3.2(1) A person who practices nursing in the state of Iowa as defined in Iowa Code section 152.1, outside of one's family, shall have a current Iowa license, whether or not the employer is in Iowa and whether or not the person receives compensation. The license shall be available for public inspection.

a. A person denied licensure or not having a current active Iowa license because of disciplinary action by the board, or having an encumbered license in another state, may not take a nursing course with a clinical component.

b. A nurse who has been licensed in another country and does not hold a current active license because of disciplinary action may not take a nursing course with a clinical component.

(2) An inactive licensee shall have completed 15 contact hours of continuing education as specified in 655—Chapter 5. The continuing education shall have been earned within the 12 months prior to reactivation.

(3) The reactivation fee is specified in rule 3.1(17A,147,152,272C).

(4) Upon receipt of the completed application, required continuing education materials, and fee, the board shall issue a current license to practice in Iowa. The license shall be issued for more than 24 months up to 36 months until the license can be placed in the three-year renewal cycle based on birth month. Expiration shall be on the fifteenth day of the birth month.

3.7(7) *Duplicate license or certificate.* The board shall issue a duplicate of a current license or original certificate upon written request of the licensee and payment of the fee specified in rule 3.1(17A,147,152,272C). If the current license is destroyed, lost, or stolen, a duplicate license is required as replacement.

3.7(8) *Reissue of a license.* If there is an error on the license or certificate made by the board office, no fee shall be charged for a reissued corrected license or certificate. A license may be reissued if a licensee desires to have a current name or address printed on the current license prior to renewal. Reissuance is optional; however, written notification to the board office of name or address change is mandatory as outlined in subrule 3.7(1). The board shall reissue a license per written request of the licensee and payment of the fee as specified in rule 3.1(17A,147,152,272C) or at the direction of the executive director.

655—3.8(17A,147,152,272C) Verification. Upon written request from the licensee or other state and payment of the verification fee as specified in rule 3.1(17A,147,152,272C), the board shall provide a certified statement to another state that a registered nurse/licensed practical nurse is licensed, inactive, or lapsed in Iowa.

These rules are intended to implement Iowa Code chapters 17A, 152, and 272C and Iowa Code sections 147.2, 147.10, 147.11, 147.36, 147.76, 147.80, 147.100, 152.1, 152.5, 152.9, and 152.10.

[Filed 5/12/70]
[Filed 5/12/70; amended 8/11/70]◊
[Filed 2/20/76, Notice 12/29/75—published 3/8/76, effective 4/12/76]◊
[Filed 5/3/76, Notices 1/12/76, 3/22/76—published 5/17/76, effective 6/21/76]◊
[Filed 5/24/76, Notice 4/19/76—published 6/14/76, effective 7/19/76]◊
[Filed 12/3/76, Notice 8/9/76—published 12/29/76, effective 2/2/77]◊
[Filed 3/9/77, Notice 12/29/76—published 4/6/77, effective 5/11/77]◊
[Filed 3/18/77, Notice 8/9/76—published 4/6/77, effective 5/11/77]
[Filed 6/24/77, Notices 12/15/76, 4/20/77—published 7/13/77, effective 8/17/77]◊
[Filed 10/3/77, Notice 8/24/77—published 10/19/77, effective 11/23/77]
[Filed emergency 1/23/78—published 2/8/78, effective 1/23/78]
[Filed 4/21/78, Notice 2/22/78—published 5/17/78, effective 6/21/78]
[Filed 4/21/78, Notice 3/8/78—published 5/1/78, effective 6/21/78]◊
[Filed 7/17/80, Notice 5/14/80—published 8/6/80, effective 9/10/80]◊

◊History relating also to "Licensure to Practice—Licensed Practical Nurse," Ch 4 prior to IAC 5/23/84.

[Filed emergency after Notice 6/21/82, Notice 5/12/82—published 7/7/82, effective 6/21/82]
[Filed emergency after Notice 2/10/83, Notice 1/5/83—published 3/2/83, effective 2/10/83]◊
[Filed 5/2/84, Notice 2/29/84—published 5/23/84, effective 6/27/84]
[Filed 10/17/84, Notice 8/29/84—published 11/7/84, effective 12/12/84]
[Filed without Notice 7/19/85—published 8/14/85, effective 9/18/85]
[Filed 7/19/85, Notice 5/22/85—published 8/14/85, effective 9/18/85]
[Filed 9/20/85, Notice 8/14/85—published 10/9/85, effective 11/13/85]
[Filed emergency after Notice 4/15/86, Notice 2/26/86—published 5/7/86, effective 4/18/86]
[Filed 9/22/86, Notice 8/13/86—published 10/8/86, effective 11/12/86]
[Filed 4/30/87, Notice 2/25/87—published 5/20/87, effective 6/24/87]
[Filed emergency 7/29/87—published 8/26/87, effective 7/29/87]
[Filed 10/2/87, Notice 7/15/87—published 10/21/87, effective 11/25/87]
[Filed 2/17/88, Notice 12/16/87—published 3/9/88, effective 4/13/88]
[Filed 3/10/88, Notice 9/9/87—published 4/6/88, effective 7/1/88]
[Filed emergency 4/15/88 after Notice 2/24/88—published 5/4/88, effective 4/15/88]
[Filed 8/4/88, Notice 4/20/88—published 8/24/88, effective 9/28/88]
[Filed 8/4/88, Notice 6/15/88—published 8/24/88, effective 9/28/88]
[Filed 9/12/88, Notice 6/29/88—published 10/5/88, effective 11/9/88]*
[Filed 10/6/88, Notice 8/24/88—published 11/2/88, effective 12/7/88]
[Filed 5/26/89, Notice 2/22/89—published 6/14/89, effective 7/19/89]
[Filed 3/15/90, Notice 1/10/90—published 4/4/90, effective 5/9/90]
[Filed 12/20/91, Notice 10/16/91—published 1/8/92, effective 2/12/92]
[Filed emergency 2/10/93 after Notice 1/6/93—published 3/3/93, effective 2/10/93]
[Filed 12/8/93, Notice 10/13/93—published 1/5/94, effective 2/9/94]
[Filed 6/16/94, Notice 4/13/94—published 7/6/94, effective 8/10/94]
[Filed 9/30/94, Notice 7/6/94—published 10/26/94, effective 11/30/94]
[Filed 6/15/95, Notice 4/12/95—published 7/5/95, effective 8/9/95]
[Filed 10/5/95, Notice 7/5/95—published 10/25/95, effective 11/29/95]
[Filed 12/14/95, Notice 10/25/95—published 1/3/96, effective 2/7/96]
[Filed 4/29/99, Notice 3/24/99—published 5/19/99, effective 6/23/99]
[Filed 8/17/99, Notice 6/30/99—published 9/8/99, effective 10/13/99]

◊History relating also to "Licensure to Practice—Licensed Practical Nurse," Ch 4 prior to IAC 5/23/84.
*Effective date of 11/9/88 delayed 70 days by the Administrative Rules Review Committee at its October meeting.
Delay lifted by ARRC 11/16/88.

657—10.19(124) Excluded substances. The following substances are classified as products exempted from classification as controlled substances:

Company	Trade name	NDC code	Form	Controlled substance	(mg or mg/ml)
Bioline Laboratories	Theophed	00719-1945	TB	Phenobarbital	8.00
Goldline Laboratories	Guiaphed Elixir	00182-1377	EL	Phenobarbital	4.00
Goldline Laboratories	Tedrigen Tablets	00182-0134	TB	Phenobarbital	8.00
Hawthorne Products Inc.	Choate's Leg Freeze		LQ	Chloral hydrate	246.67
Parke-Davis & Co.	Tedral	00071-0230	TB	Phenobarbital	8.00
Parke-Davis & Co.	Tedral Elixir	00071-0242	EX	Phenobarbital	40.00
Parke-Davis & Co.	Tedral S.A.	00071-0231	TB	Phenobarbital	8.00
Parke-Davis & Co.	Tedral Suspension	00071-0237	SU	Phenobarbital	80.00
Parmed Pharmacy	Asma-Ese	00349-2018	TB	Phenobarbital	8.10
Rondex Labs	Azma-Aids	00367-3153	TB	Phenobarbital	8.00
Smith Kline Consumer	Benzedrex	49692-0928	IN	Propylhexedrine	250.00
Sterling Drug, Inc.	Bronkolixir	00057-1004	EL	Phenobarbital	0.80
Sterling Drug, Inc.	Bronkotabs	00057-1005	TB	Phenobarbital	8.00
Vicks Chemical Co.	Vicks Inhaler	23900-0010	IN	l-Desoxyephedrine	113.00
White Hall Labs	Primatene (P-tablets)	00573-2940	TB	Phenobarbital	8.00

This rule is intended to implement Iowa Code sections 124.210(4) and 124.211.

657—10.20(124) Temporary designation of controlled substances.

10.20(1) Amend Iowa Code subsection 124.206(7) by rescinding paragraph *"b"* and relettering paragraph *"c"* as *"b."*

10.20(2) Amend Iowa Code section 124.208 by adopting the following new subsection:

8. Hallucinogenic substances. Dronabinol (synthetic) in sesame oil and encapsulated in a soft gelatin capsule in a United States Food and Drug Administration approved product. Some other names for dronabinol: (6aR-trans)-6a, 7, 8, 10a-tetrahydro-6, 6, 9-trimethyl-3-pentyl-6H-dibenzo [b,d] pyran-1-ol, or (-)-delta-9-(trans)-tetrahydrocannabinol.

657—10.21(205) Purpose of issue of prescription. Any order purporting to be a prescription for a Schedule III dronabinol product not issued for indications approved by the Food and Drug Administration is not a prescription within the meaning and intent of the federal law (21 U.S.C. 829) or of Iowa Code section 205.3. Any person knowingly filling such a purported prescription, as well as the person issuing it, shall be subject to the penalties provided for violations of the provisions of law relating to controlled substances. Nothing in this rule shall be deemed to prohibit the prescribing of dronabinol products approved by the Food and Drug Administration for other than indications for use approved by the Food and Drug Administration by a researcher or registered practitioner conducting research, provided that the research is conducted in accordance with research protocol provisions approved by the board or federal law (21 CFR 1301.18 as of April 1, 1999).

This rule is intended to implement Iowa Code section 205.3.

657—10.22(205) Requirement of prescription. An individual practitioner as defined in Iowa Code subsection 124.101(23) may not administer or dispense Schedule III dronabinol products unless such administering or dispensing is for indications for use approved by the Food and Drug Administration. Any person knowingly administering or dispensing Schedule III dronabinol products contrary to this rule shall be subject to the penalties provided for violation of the provisions of law relating to controlled substances. Nothing in this rule shall be deemed to prohibit the administering or dispensing of Schedule III dronabinol products for other indications for use approved by the Food and Drug Administration by a researcher or registered practitioner conducting research provided that the research is conducted in accordance with research protocol provisions approved by the board or federal law (21 CFR 1301.18 as of April 1, 1999).

This rule is intended to implement Iowa Code section 205.3.

657—10.23(124) Exempt anabolic steroid products. The Iowa board of pharmacy examiners hereby adopts the table of "Exempt Anabolic Steroid Products" contained in Title 21 CFR, Part 1308, Section 34, as published in the Federal Register dated November 24, 1992, Vol. 57, No. 227, page 55091, and as amended by the addition of two new entries to the table as published in the Federal Register dated June 29, 1993, Vol. 58, No. 123, page 34707. Copies of the table may be obtained by written request to the board office at 1209 East Court Avenue, Executive Hills West, Des Moines, Iowa 50319.

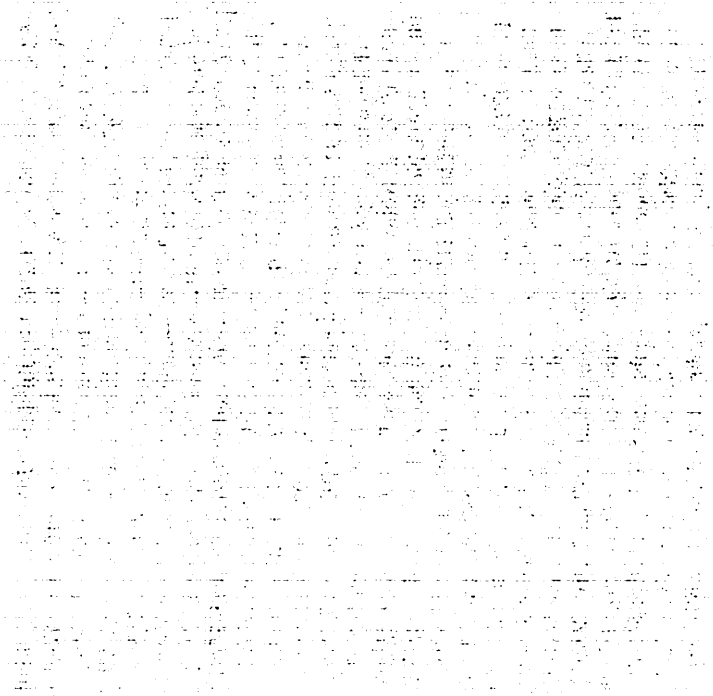
These rules are intended to implement Iowa Code sections 124.201, 124.202, 124.208, 124.306, 124.501, 124.506, and 205.3.

[Filed 9/29/71; amended 8/9/72, 12/15/72, 11/14/73, 8/14/74, 4/8/75]
[Filed 11/24/76, Notice 10/20/76—published 12/15/76, effective 1/19/77]
[Filed 11/9/77, Notice 8/24/77—published 11/30/77, effective 1/4/78]
[Filed 10/20/78, Notices 8/9/78, 9/6/78—published 11/15/78, effective 1/9/79]
[Filed 8/28/79, Notice 5/30/79—published 9/19/79, effective 10/24/79]
[Filed 2/12/81, Notice 12/24/80—published 3/4/81, effective 7/1/81]
[Filed 7/24/81, Notice 5/13/81—published 8/19/81, effective 9/23/81]
[Filed emergency 12/14/81—published 1/6/82, effective 1/6/82]
[Filed emergency 10/6/82—published 10/27/82, effective 10/27/82]
[Filed 6/16/83, Notice 5/11/83—published 7/6/83, effective 8/10/83]
[Filed 2/23/84, Notice 11/23/83—published 3/14/84, effective 4/18/84]
[Filed emergency 8/10/84—published 8/29/84, effective 8/10/84]
[Filed emergency 6/14/85—published 7/3/85, effective 6/14/85]
[Filed emergency 8/30/85—published 9/25/85, effective 9/6/85]
[Filed emergency 12/4/85—published 1/1/86, effective 12/5/85]
[Filed emergency 5/14/86—published 6/4/86, effective 5/16/86]
[Filed 5/14/86, Notice 4/9/86—published 6/4/86, effective 7/9/86]◊
[Filed 1/28/87, Notice 11/19/86—published 2/25/87, effective 4/1/87]
[Filed emergency 7/24/87—published 8/12/87, effective 7/24/87]
[Filed 8/5/87, Notice 6/3/87—published 8/26/87, effective 9/30/87]
[Filed emergency 1/21/88—published 2/10/88, effective 1/22/88]
[Filed 3/29/88, Notice 2/10/88—published 4/20/88, effective 5/25/88]
[Filed emergency 8/5/88—published 8/24/88, effective 8/5/88]
[Filed emergency 10/13/88—published 11/2/88, effective 10/13/88]
[Filed emergency 5/16/89—published 6/14/89, effective 5/17/89]
[Filed emergency 9/12/89—published 10/4/89, effective 9/13/89]

◊Two ARCs

[Filed 1/19/90, Notice 11/29/89—published 2/7/90, effective 3/14/90]
[Filed 8/31/90, Notice 6/13/90—published 9/19/90, effective 10/24/90]
[Filed emergency 1/29/91—published 2/20/91, effective 2/27/91]
[Filed 1/29/91, Notice 9/19/90—published 2/20/91, effective 3/27/91]
[Filed emergency 2/27/91—published 3/20/91, effective 2/27/91]
[Filed 4/26/91, Notice 2/20/91—published 5/15/91, effective 6/19/91]
[Filed emergency 5/10/91—published 5/29/91, effective 5/10/91]
[Filed 7/30/91, Notice 5/29/91—published 8/21/91, effective 9/25/91*]
[Filed emergency 9/23/91—published 10/16/91, effective 9/23/91]
[Filed emergency 10/18/91—published 11/13/91, effective 10/21/91]
[Filed 3/12/92, Notice 1/8/92—published 4/1/92, effective 5/6/92]
[Filed 5/21/92, Notice 4/1/92—published 6/10/92, effective 7/15/92]
[Filed emergency 8/10/92—published 9/2/92, effective 8/10/92]
[Filed 10/22/92, Notice 9/2/92—published 11/11/92, effective 1/1/93]
[Filed 9/23/93, Notice 5/26/93—published 10/13/93, effective 11/17/93]
[Filed emergency 3/21/94—published 4/13/94, effective 3/23/94]
[Filed 3/21/94, Notice 10/13/93—published 4/13/94, effective 5/18/94]
[Filed 4/22/94, Notice 11/10/93—published 5/11/94, effective 6/15/94]
[Filed 6/24/94, Notice 4/13/94—published 7/20/94, effective 8/24/94]
[Filed 3/22/95, Notice 11/9/94—published 4/12/95, effective 5/31/95]
[Filed 12/6/95, Notice 8/16/95—published 1/3/96, effective 2/7/96]
[Filed 11/19/97, Notice 10/8/97—published 12/17/97, effective 1/21/98]
[Filed 4/24/98, Notice 3/11/98—published 5/20/98, effective 6/24/98]
[Filed 7/31/98, Notice 5/20/98—published 8/26/98, effective 9/30/98]
[Filed emergency 8/18/99—published 9/8/99, effective 8/18/99]

*Effective date delayed 70 days by the Administrative Rules Review Committee at its meeting held September 11, 1991.



(2) The date the tax will be imposed (which shall be the next implementation date provided in Iowa Code section 422B.9 following the date of the election and allowing for not less than 40 days' notice to be given to the director of revenue and finance, except that an election to impose a local option tax on a date immediately following the scheduled repeal date of an existing similar tax may be held at any time in the 14 months before the scheduled repeal date and allowing for not less than 40 days' notice to be given to the director of revenue and finance). The imposition date shall be uniform in all areas of the county voting on the tax at the same election.

(3) The approximate amount of local option tax revenues that will be used for property tax relief in the jurisdiction.

(4) A statement of the specific purposes other than property tax relief for which revenues will be expended in the jurisdiction.

c. The information to be included in the notice shall be provided to the commissioner by the city councils of each city in the county not later than 67 days before the date of the election. If a jurisdiction fails to provide the information in 21.4(3)*"b"*(3) and 21.4(3)*"b"*(4) above, the following information shall be substituted in the notice and on the ballot:

(1) Zero percent (0%) for property tax relief.

(2) The specific purpose for which the revenues will otherwise be expended is: Any lawful purpose of the city (or county).

d. The notice of election provided for in Iowa Code section 49.53 shall also be published at the time and in the manner specified in that section.

21.800(4) Definitions.

"Abstract of ballot" means abstract of votes.

This rule is intended to implement Iowa Code sections 422B.1 and 422B.9.

721—21.801(422B) Form of ballot for local option tax elections. If questions pertaining to more than one of the authorized local option taxes are submitted at a single election, all of the public measures shall be printed on the same ballot. The form of ballots to be used throughout the state of Iowa for the purpose of submitting questions pertaining to local option taxes shall be as follows:

21.801(1) *Local sales and services tax propositions.* Sales and services tax propositions shall be submitted to the voters of an entire county. If the election is being held for the voters to decide whether to impose the tax in a county where a local option sales and services tax has previously been approved for part of the county, the question of imposition shall be voted upon in all parts of the county where the tax has not been approved. If the election is being held for the voters to decide whether to repeal the tax in a county where a local option sales and services tax has previously been approved for part of the county, the question of repeal shall be voted upon in all parts of the county where the tax was previously imposed. If the election is being held for the voters to decide whether to change the rate or use of the tax in a county where a local option sales and services tax has previously been approved for part of the county, the question of rate or use change shall be voted upon in all parts of the county where the tax was previously imposed.

The ballot submitted to the voters of each incorporated area and the unincorporated area of the county shall show the intended uses for that jurisdiction. The ballot submitted to the voters in contiguous cities within a county shall show the intended uses for each of the contiguous cities. The ballots shall be in substantially the following form:

a. Imposition question for voters in a single city or the unincorporated area of the county:

(Insert letter to be assigned by the commissioner)

SHALL THE FOLLOWING PUBLIC MEASURE BE ADOPTED? YES ☐
NO ☐

Summary: To authorize imposition of a local sales and services tax in the [city of _____] [unincorporated area of the county of _____], at the rate of _____ percent (_____ %) to be effective on _____ (month and day), _____ (year).

(Insert in substantially the following form the entire text of the proposed public measure immediately below the summary on all paper ballots as provided in Iowa Code section 49.45, or place on the left-hand side inside the curtain of each voting machine as provided in Iowa Code section 52.25. Counties using special paper ballots which are read by computerized tabulating equipment may summarize the question on the ballot and post the complete text as provided in Iowa Code section 52.25.)

A local sales and services tax shall be imposed in the [city of _____] [unincorporated area of the county of _____] at the rate of _____ percent (_____ %) to be effective on _____ (month and day), _____ (year).

Revenues from the sales and services tax shall be allocated as follows:

(Choose one or more of the following:)

[_____ for property tax relief (insert percentage or dollar amount)]

[_____ for property tax relief (insert percentage or dollar amount) in the unincorporated area of the county of _____]

[_____ for property tax relief (insert percentage or dollar amount) in the county of _____]

The specific purpose (or purposes) for which the revenues shall otherwise be expended is (are):

(List specific purpose or purposes)

21.803(4) *Notice to the department of revenue and finance.* Within 10 days after an election where a local sales and services tax for school infrastructure projects has been adopted, repealed or where the rate of the tax has been changed, the county auditor shall provide written notice by sending a copy of the abstract of votes to the director of the department of revenue and finance. This notice shall be given at least 40 days before the implementation date of the tax.

This rule is intended to implement 1998 Iowa Acts, House File 2282.

721—21.804 to **21.809** Reserved.

721—21.810(34A) Referendum on enhanced 911 emergency telephone communication system funding.

21.810(1) *Form of ballot.* The ballot for the E911 referendum shall be in substantially the following form:

(Insert letter to be assigned by the commissioner)

SHALL THE FOLLOWING PUBLIC MEASURE BE ADOPTED? YES ☐
NO ☐

Enhanced 911 emergency telephone service shall be funded, in whole or in part, by a monthly surcharge of (an amount to be determined by the local joint E911 service board of up to one dollar) on each telephone access line collected as part of each telephone subscriber's monthly phone bill if provided within (description of the proposed service area).

A map may be used to show the proposed E911 service area. If a map is used the public measure shall read as follows:

"Enhanced 911 emergency telephone service shall be funded, in whole or in part, by a monthly surcharge of (an amount to be determined by the local joint E911 service board of up to one dollar) on each telephone access line collected as part of each telephone subscriber's monthly phone bill if provided within the proposed E911 service area shown on the map below."

21.810(2) *Cost of election.* The E911 service board shall pay the costs of the referendum election.

21.810(3) *Enhanced 911 emergency service funding referendum held in conjunction with a scheduled election.*

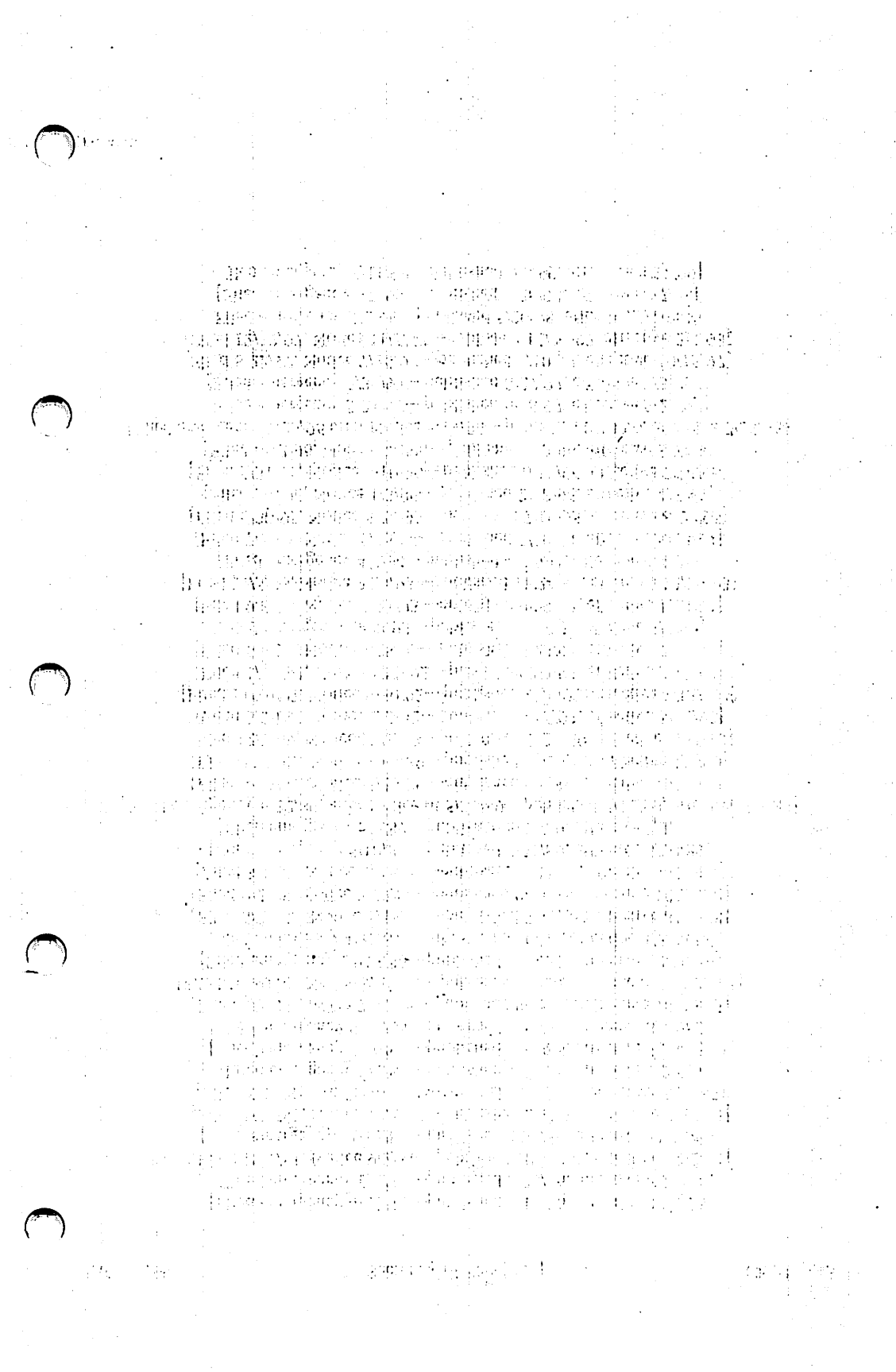
a. Notice to commissioner. The joint E911 service board shall notify the commissioner in writing, no later than the last day upon which nomination papers may be filed, of their intention to conduct the referendum with the scheduled election. The notice shall contain the complete text of the referendum question including the description of the proposed E911 service area. If a map is to be used on the ballot to describe the proposed E911 service area, the map shall be included. If the E911 service area includes more than one county, the service board shall notify the commissioner of each of the counties.

b. Conduct of election. All qualified electors in a precinct which is to be served, in whole or in part, by the proposed E911 service area, shall be permitted to vote on the question. The results of the referendum shall be canvassed by the board of supervisors at the time of the canvass of the scheduled election. The commissioner shall immediately certify the results to the joint E911 board.

c. Service board duties. If subscribers from more than one county are included within the proposed service area, the E911 service board shall meet as a board of canvassers to compile the results from the counties. The canvass shall be held on the tenth day following the election at a time established by the E911 service board. The service board shall prepare an abstract showing in words and numbers the number of votes cast for and against the question and, if a simple majority of those voting on the question has voted in the affirmative, the board shall declare that the surcharge has been adopted. Votes cast and not counted as a vote for or against the question shall not be used in computing the total vote cast for and against the question.

[Filed emergency 4/22/76—published 5/17/76, effective 4/22/76]
[Filed emergency 6/2/76—published 6/28/76, effective 8/2/76]
[Filed 10/7/81, Notice 9/2/81—published 10/28/81, effective 12/2/81]
[Filed emergency 11/15/84—published 12/5/84, effective 11/15/84]
[Filed 1/22/85, Notice 12/5/84—published 2/13/85, effective 3/20/85]
[Filed 5/17/85, Notice 4/10/85—published 6/5/85, effective 7/10/85]
[Filed emergency 7/2/85—published 7/31/85, effective 7/2/85]
[Filed emergency 7/26/85—published 8/14/85, effective 7/26/85]
[Filed emergency 8/14/85—published 9/11/85, effective 8/14/85]
[Filed 9/6/85, Notice 7/31/85—published 9/25/85, effective 10/30/85]
[Filed 10/30/85, Notice 9/25/85—published 11/20/85, effective 12/25/85]
[Filed emergency 12/18/86—published 1/14/87, effective 12/18/86]
[Filed emergency 4/20/87—published 5/20/87, effective 4/20/87]◊
[Filed 6/23/88, Notice 5/18/88—published 7/13/88, effective 8/17/88]
[Filed 9/2/88, Notice 7/27/88—published 9/21/88, effective 10/26/88]
[Filed 3/1/89, Notice 1/25/89—published 3/22/89, effective 4/26/89]
[Filed emergency 5/10/89—published 5/31/89, effective 5/10/89]
[Filed emergency 6/9/89—published 6/28/89, effective 7/1/89]
[Filed emergency 6/22/89, after Notice of 5/31/89—published 7/12/89, effective 7/1/89]
[Filed 8/16/89, Notice 6/28/89—published 9/6/89, effective 10/11/89]
[Filed 11/9/89, Notice 10/4/89—published 11/29/89, effective 1/3/90]
[Filed 12/7/89, Notice 11/1/89—published 12/27/89, effective 1/31/90]
[Filed 3/26/92, Notice 2/5/92—published 4/15/92, effective 5/20/92]
[Filed 11/19/92, Notice 9/30/92—published 12/9/92, effective 1/13/93]◊
[Filed 1/14/93, Notice 12/9/92—published 2/3/93, effective 3/10/93]
[Filed 6/4/93, Notice 4/28/93—published 6/23/93, effective 7/28/93]
[Filed emergency 6/28/93—published 7/21/93, effective 7/1/93]
[Filed 9/8/93, Notice 7/21/93—published 9/29/93, effective 11/3/93]
[Filed 11/5/93, Notice 9/29/93—published 11/24/93, effective 12/29/93]
[Filed emergency 4/4/94—published 4/27/94, effective 4/4/94]
[Filed 7/1/94, Notice 5/25/94—published 7/20/94, effective 8/24/94]
[Filed 6/30/95, Notice 5/24/95—published 7/19/95, effective 8/23/95]
[Filed 2/8/96, Notice 1/3/96—published 2/28/96, effective 4/3/96]
[Filed 5/31/96, Notice 4/10/96—published 6/19/96, effective 7/24/96]
[Filed 6/13/96, Notice 5/8/96—published 7/3/96, effective 8/7/96]
[Filed emergency 7/25/96 after Notice 6/19/96—published 8/14/96, effective 7/25/96]
[Filed emergency 5/21/97—published 6/18/97, effective 5/21/97]
[Filed emergency 7/30/97—published 8/27/97, effective 7/30/97]
[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 emergency 5/1/98—published 5/20/98, effective 5/1/98]◊
[Filed emergency 8/7/98—published 8/26/98, effective 8/7/98]
[Filed emergency 8/11/99—published 9/8/99, effective 8/11/99]

◊Two ARCs



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