

*State of Iowa*

# **Iowa Administrative Code Supplement**

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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 THE  
**IOWA ADMINISTRATIVE CODE**

Agency names and numbers in the first column below correspond to the divider tabs in the IAC binders. Obsolete pages of the IAC are listed in the "Remove Old Pages" column. New and replacement pages included in this Supplement are listed in the "Insert New Pages" column. Carefully remove and insert pages as directed.

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**UPDATING INSTRUCTIONS**  
**June 14, 2000, Biweekly Supplement**  
[Previous Supplement dated 5/31/00]

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\*These pages may be archived for tracing the history of a rule.

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1. The first part of the report deals with the general situation of the country and the progress of the work during the year. It is a summary of the work done and the results obtained.

2. The second part of the report deals with the work done during the year. It is a detailed account of the work done and the results obtained.

3. The third part of the report deals with the work done during the year. It is a detailed account of the work done and the results obtained.

4. The fourth part of the report deals with the work done during the year. It is a detailed account of the work done and the results obtained.

5. The fifth part of the report deals with the work done during the year. It is a detailed account of the work done and the results obtained.

DIVISION II  
(Effective July 1, 2000)

**191—16.21(507B) Purpose.**

**16.21(1)** The purpose of these rules is:

a. To regulate the activities of insurers and producers with respect to the replacement of existing life insurance and annuities.

b. To protect the interests of life insurance and annuity purchasers by establishing minimum standards of conduct to be observed in replacement or financed purchase transactions by:

(1) Ensuring that purchasers receive information with which a decision can be made in the purchaser's own best interest;

(2) Reducing the opportunity for misrepresentation and incomplete disclosure; and

(3) Establishing penalties for failure to comply with requirements of these rules.

**16.21(2)** These rules are authorized by Iowa Code section 507B.12 and are intended to implement Iowa Code section 507B.4.

**191—16.22(507B) Definitions.**

*"Commissioner"* means the Iowa insurance commissioner.

*"Contract"* means an individual annuity contract.

*"Direct-response solicitation"* means a solicitation through a sponsoring or endorsing entity or individually solely through mails, telephone, the Internet or other mass communication media.

*"Existing insurer"* means the insurance company whose policy or contract is or will be changed or affected in a manner described within the definition of "replacement."

*"Existing policy or contract"* means an individual life insurance policy (policy) or annuity contract (contract) in force, including a policy under a binding or conditional receipt or a policy or contract that is within an unconditional refund period.

*"Financed purchase"* means the purchase of a new policy involving the actual or intended use of funds obtained by the withdrawal or surrender of, or by borrowing from, values of an existing policy to pay all or part of any premium due on a new policy. For purposes of a regulatory review of an individual transaction only, if a withdrawal, surrender, or borrowing involving the policy values of an existing policy is used to pay premiums on a new policy owned by the same policyholder and issued by the same company, within 4 months before or 13 months after the effective date of the new policy, it will be deemed prima facie evidence of the policyholder's intent to purchase the new policy with existing policy values. This prima facie standard is not intended to increase or decrease the monitoring obligations contained in paragraph 16.25(1)"e."

*"Illustration"* means a presentation or depiction that includes nonguaranteed elements of a policy of life insurance over a period of years as defined in Iowa Administrative Code 191—Chapter 14.

*"Policy"* means an individual life insurance policy.

*"Policy summary,"* for the purposes of these rules, means:

1. For policies or contracts other than universal life policies, a written statement regarding a policy or contract which shall contain to the extent applicable, but need not be limited to, the following information: current death benefit; annual contract premium; current cash surrender value; current dividend; application of current dividend; and amount of outstanding loan.

2. For universal life policies, a written statement that shall contain at least the following information: the beginning and end date of the current report period; the policy value at the end of the previous report period and at the end of the current report period; the total amounts that have been credited or debited to the policy value during the current report period, identifying each by type (e.g., interest, mortality, expense and riders); the current death benefit at the end of the current report period on each life covered by the policy; the net cash surrender value of the policy as of the end of the current report period; and the amount of outstanding loans, if any, as of the end of the current report period.

*"Producer"* means a person licensed under Iowa Code chapter 522.

*"Registered contract"* means a variable annuity contract or variable life insurance policy subject to the prospectus delivery requirements of the Securities Act of 1933.

*"Replacement"* means a transaction in which a new policy or contract is to be purchased, and it is known or should be known to the proposing producer, or to the proposing insurer if there is no producer, that by reason of the transaction, an existing policy or contract has been or is to be:

1. Lapsed, forfeited, surrendered or partially surrendered, assigned to the replacing insurer or otherwise terminated;
2. Converted to reduced paid-up insurance, continued as extended term insurance, or otherwise reduced in value by the use of nonforfeiture benefits or other policy values;
3. Amended so as to effect either a reduction in benefits or in the term for which coverage would otherwise remain in force or for which benefits would be paid;
4. Reissued with any reduction in cash value; or
5. Used in a financed purchase.

*"Replacing insurer"* means the insurance company that issues or proposes to issue a new policy or contract that replaces an existing policy or contract or is a financed purchase.

*"Sales material"* means a sales illustration and any other written, printed or electronically presented information created, completed or provided by the company or producer that is used in the presentation to the policy or contract owner related to the policy or contract which is purchased.

#### **191—16.23(507B) Exemptions.**

**16.23(1)** Unless otherwise specifically included, these rules shall not apply to transactions involving:

- a. Credit life insurance.
- b. Group life insurance or group annuities where there is no direct solicitation of individuals by an insurance producer. Direct solicitation shall not include any group meeting held by an insurance producer solely for the purpose of educating or enrolling individuals or, when initiated by an individual member of the group, assisting with the selection of investment options offered by a single insurer in connection with enrolling that individual. Group life insurance or group annuity certificates marketed through direct-response solicitation shall be subject to the provisions of rule 16.28(507B).
- c. Group life insurance and annuities used to fund formal prepaid funeral contracts.
- d. An application to the existing insurer that issued the existing policy or contract when a contractual change or a conversion privilege is being exercised; or when the existing policy or contract is being replaced by the same insurer pursuant to a program filed with and approved by the commissioner.
- e. Proposed life insurance that is to replace life insurance under a binding or conditional receipt issued by the same company.
- f. Except as noted below, policies or contracts used to fund:
  - (1) An employee pension or welfare benefit plan that is covered by the Employee Retirement and Income Security Act (ERISA);
  - (2) A plan described by Section 401(a), 401(k) or 403(b) of the Internal Revenue Code, where the plan, for purposes of ERISA, is established or maintained by an employer;
  - (3) A governmental or church plan defined in Section 414 of the Internal Revenue Code, a governmental or church welfare benefit plan, or a deferred compensation plan of a state or local government or tax-exempt organization under Section 457 of the Internal Revenue Code; or
  - (4) A nonqualified deferred compensation arrangement established or maintained by an employer or plan sponsor.

These rules shall apply to policies or contracts used to fund any plan or arrangement that is funded solely by contributions an employee elects to make, whether on a pretax or after-tax basis, and where the insurance company has been notified that plan participants may choose from among two or more annuity providers or policy providers and there is a direct solicitation of an individual employee by an insurance producer for the purchase of a contract or policy. As used in this subrule, direct solicitation shall not include any group meeting held by an insurance producer solely for the purpose of educating individuals about the plan or arrangement or enrolling individuals in the plan or arrangement or, when initiated by an individual employee, assisting with the selection of investment options offered by a single insurer in connection with enrolling that individual employee.

*g.* New coverage provided under a life insurance policy or contract where the cost is borne wholly by the insured's employer or by an association of which the insured is a member.

*h.* Existing life insurance that is a non-convertible term life insurance policy that will expire in five years or less and cannot be renewed.

*i.* Immediate annuities that are purchased with proceeds from an existing contract. Immediate annuities purchased with proceeds from an existing policy are not exempted from the requirements of this chapter.

*j.* Structured settlement annuities.

**16.23(2)** Registered contracts shall be exempt from the requirements of paragraph 16.26(1)"b" and subrule 16.27(2) with respect to the provision of illustrations or policy summaries; however, premium or contract contribution amounts and identification of the appropriate prospectus or offering circular shall be required instead.

#### **191—16.24(507B) Duties of producers.**

**16.24(1)** A producer who initiates an application for a policy or a contract shall submit to the insurer, with or as part of the application, a statement signed by both the applicant and the producer as to whether the applicant has existing policies or contracts. If the applicant does not have an existing policy or contract, the producer's duties with respect to replacement are complete.

**16.24(2)** If the applicant does have an existing policy or contract, the producer shall present and read to the applicant, not later than at the time of taking the application, a notice regarding replacements in the form as described in Appendix A or other substantially similar form approved by the commissioner. No approval shall be required when amendments to the notice are limited to the omission of references not applicable to the product being sold or replaced.

*a.* The notice shall be signed by both the applicant and the producer attesting that the notice has been read aloud by the producer or that the applicant did not wish the notice to be read aloud (in which case the producer need not have read the notice aloud) and that a copy of the notice was left with the applicant.

*b.* The notice shall list all life insurance policies or annuities proposed to be replaced, properly identified by name of insurer, the insured or annuitant, and policy or contract number if available; and shall include a statement as to whether each policy or contract will be replaced or whether a policy will be used as a source of financing for the new policy. If a policy or contract number has not been issued by the existing insurer, alternative identification, such as an application or receipt number, shall be listed.

**16.24(3)** In connection with a replacement transaction, the producer shall leave with the applicant at the time an application for a new policy or contract is completed the original or a copy of all sales material. A copy of any electronically presented sales material shall be provided to the policyholder in printed form no later than at the time of policy or contract delivery.

**16.24(4)** Except as provided in subrule 16.26(3), in connection with a replacement transaction, the producer shall submit to the insurer to which an application for a policy or contract is presented a copy of each document required by this subrule, a statement identifying any preprinted or electronically presented insurer-approved sales materials used, and copies of any individualized sales materials, including any illustrations related to the specific policy or contract purchased.

**191—16.25(507B) Duties of all insurers that use producers on or after January 1, 2001.**

**16.25(1)** Each insurer that uses producers shall maintain a system of supervision and control to ensure compliance with the requirements of these rules that shall include at least the following:

- a. Informing its producers of the requirements of these rules and incorporating the requirements of these rules into all relevant producer training manuals prepared by the insurer;
- b. Providing to each producer a written statement of the insurer's position with respect to the acceptability of replacements including providing guidance to its producer as to the appropriateness of these transactions;
- c. Reviewing the appropriateness of each replacement transaction that the producer does not indicate is in accord with paragraph 16.25(1) "b" above;
- d. Confirming that the requirements of these rules have been met; and
- e. Detecting transactions that are replacements of existing policies or contracts by the existing insurer but that have not been reported as such by the applicant or producer. Compliance with this subrule may include, but shall not be limited to, systematic customer surveys, interviews, confirmation letters or programs of internal monitoring.

**16.25(2)** Each insurer that uses producers shall have the capacity to monitor each producer's life insurance policy and annuity contract replacements for that insurer and shall, upon request, make such records available to the insurance division. The capacity to monitor shall include the ability to produce records for each producer's:

- a. Life replacements, including financed purchases, as a percentage of the producer's total annual sales for life insurance;
- b. Number of lapses of policies by the producer as a percentage of the producer's total annual sales for life insurance;
- c. Annuity contract replacements as a percentage of the producer's total annual annuity contract sales;
- d. Number of transactions that are unreported replacements of existing policies or contracts by the existing insurer detected by the insurer's monitoring system as required by paragraph "e" of subrule 16.25(1); and
- e. Replacements, indexed by replacing producer and existing insurer.

**16.25(3)** Each insurer that uses producers shall require with or as a part of each application for life insurance or for an annuity a statement signed by both the applicant and the producer as to whether the applicant has existing policies or contracts.

**16.25(4)** Each insurer that uses producers shall require with each application for life insurance or for an annuity that indicates an existing policy or contract a completed notice regarding replacements as contained in Appendix A.

**16.25(5)** When the applicant has existing policies or contracts, each replacing insurer that uses producers shall be able to produce completed and signed copies of the notice regarding replacements for at least five years after the termination or expiration of the proposed policy or contract.

**16.25(6)** In connection with a replacement transaction, each replacing insurer that uses producers shall be able to produce copies of any sales material required by subrule 16.24(4), the basic illustration and any supplemental illustrations related to the specific policy or contract which is purchased and the producer's and applicant's signed statements with respect to financing and replacement for at least five years after the termination or expiration of the proposed policy or contract.

**16.25(7)** Each insurer that uses producers shall ascertain that the sales material and illustrations required by subrule 16.24(4) meet the requirements of these rules and are complete and accurate for the proposed policy or contract.

**16.25(8)** If an application does not meet the requirements of these rules, each insurer that uses producers shall notify the producer and applicant and fulfill the outstanding requirements.

**16.25(9)** Records required to be retained by this rule may be maintained in paper, photographic, microprocessed, magnetic, mechanical or electronic media or by any process which accurately reproduces the actual document.



**191—16.26(507B) Duties of replacing insurers that use producers.**

**16.26(1)** Where a replacement is involved in the transaction, the replacing insurer that uses producers shall:

- a. Verify that the required forms are received and are in compliance with these rules;
- b. Notify any other existing insurer that may be affected by the proposed replacement within five business days of receipt of a completed application indicating replacement or when the replacement is identified if not indicated on the application, and mail a copy of the available illustration or policy summary for the proposed policy or available disclosure document for the proposed contract within five business days of a request from an existing insurer;
- c. Be able to produce copies of the notification regarding replacement required in subrule 16.24(2), indexed by producer, for at least five years or until the next regular examination by the insurance department of an insurer's state of domicile, whichever is later; and
- d. Provide to the policy or contract owner notice of the right to return the policy or contract within 30 days of the delivery of the contract and receive an unconditional full refund of all premiums or considerations paid on it including any policy fees or charges or, in the case of a variable or market value adjustment policy or contract, a payment of the cash surrender value provided under the policy or contract plus the fees and other charges deducted from the gross premiums or considerations or imposed under such policy or contract. The notice may be included in Appendix A or C.

**16.26(2)** Where a replacement is involved in the transaction and where the replacing insurer and the existing insurer are the same or subsidiaries or affiliates under common ownership or control, the replacing insurer shall allow credit for the period of time that has elapsed under the replaced policy's or contract's incontestability and suicide period up to the face amount of the existing policy or contract. With regard to financed purchases, the credit may be limited to the amount that the face amount of the existing policy is reduced by the use of existing policy values to fund the new policy or contract.

**16.26(3)** Where a replacement is involved in the transaction and where an insurer prohibits the use of sales material other than that approved by the insurer, the insurer may, as an alternative to the requirements of subrule 16.24(4) do all of the following:

- a. Require of and obtain from the producer a signed statement with each application that:
  - (1) Represents that the producer used only insurer-approved sales material; and
  - (2) Represents that copies of all sales material were left with the applicant in accordance with subrule 16.24(3).
- b. Provide to the applicant a letter or by verbal communication by a person whose duties are separate from the marketing area of the insurer, within ten days of the issuance of the policy or contract, which shall include:
  - (1) Information that the producer has represented that copies of all sales material have been left with the applicant in accordance with subrule 16.24(3);
  - (2) The toll-free number by which the applicant can contact company personnel involved in the compliance function if copies of all sales material were not left with the applicant; and
  - (3) Information regarding the importance of retaining copies of the sales material for future reference.
- c. Be able to produce a copy of the letter or other verification obtained pursuant to this subrule in the policy file for at least five years after the termination or expiration of the policy or contract.

**191—16.27(507B) Duties of the existing insurer.** Where a replacement is involved in the transaction, the existing insurer shall:

**16.27(1)** Retain and be able to produce all replacement notifications received, indexed by replacing insurer, for at least five years or until the conclusion of the next regular examination conducted by the insurance department of its state of domicile, whichever is later.

**16.27(2)** Send a letter to the policy or contract owner notifying the owner of the right to receive information regarding the existing policy or contract values including, if available, an in-force illustration or policy summary if an in-force illustration cannot be produced within five business days of receipt of a notice that an existing policy or contract is being replaced. The information shall be provided within five business days of receipt of the request from the policy or contract owner.

**16.27(3)** Upon receipt of a request to borrow, surrender or withdraw any policy values, send to the applicant a notice, advising the policyowner that the release of policy values may affect the guaranteed elements, nonguaranteed elements, face amount or surrender value of the policy from which the values are released. The notice shall be sent separate from the check if the check is sent to anyone other than the policyowner. In the case of consecutive automatic premium loans, the insurer is only required to send the notice at the time of the first loan.

**191—16.28(507B) Duties of insurers with respect to direct-response solicitations.**

**16.28(1)** In the case of an application that is initiated as a result of a direct-response solicitation, the insurer shall require, with or as part of each completed application for a policy or contract, a statement asking whether the applicant, by applying for the proposed policy or contract, intends to replace, discontinue or change an existing policy or contract. If the applicant indicates a replacement or change is not intended or if the applicant fails to respond to the statement, the insurer shall send the applicant, with the policy or contract, the notice regarding replacement in Appendix B, or other substantially similar form approved by the commissioner.

**16.28(2)** If the insurer has proposed the replacement or if the applicant indicates a replacement is intended and the insurer continues with the replacement, the insurer shall:

*a.* Provide to applicants or prospective applicants with the policy or contract a notice, as described in Appendix C, or other substantially similar form approved by the commissioner. In these instances the insurer may delete the references to the producer, including the producer's signature, and references not applicable to the product being sold or replaced, without having to obtain approval of the form from the commissioner. The insurer's obligation to obtain the applicant's signature shall be satisfied if it can demonstrate that it has made a diligent effort to secure a signed copy of the notice referred to in this paragraph. The requirement to make a diligent effort shall be deemed satisfied if the insurer includes in the mailing a self-addressed, postage prepaid envelope with instructions for the return of the signed notice referred to in this subrule; and

*b.* Comply with the requirements of paragraph 16.26(1) "b," if the applicant furnishes the names of the existing insurers, and the requirements of paragraphs 16.26(1) "c" and "d" and subrule 16.26(2).

**191—16.29(507B) Violations and penalties.**

**16.29(1)** Any failure to comply with these rules shall be considered a violation of Iowa Administrative Code rules 191—15.7(507B) and 191—15.8(507B). Examples of violations include but are not limited to:

- a.* Any deceptive or misleading information set forth in sales material;
- b.* Failing to ask the applicant in completing the application the pertinent questions regarding the possibility of financing or replacement;
- c.* The intentional incorrect recording of an answer;
- d.* Advising an applicant to respond negatively to any question regarding replacement in order to prevent notice to the existing insurer; or
- e.* Advising a policy or contract owner to write directly to the insurer in such a way as to attempt to obscure the identity of the replacing producer or insurer.

**16.29(2)** Policy and contract owners have the right to replace existing life insurance policies or annuity contracts after indicating in or as a part of applications for new coverage that replacement is not their intention; however, patterns of such action by policy or contract owners of the same producer shall be deemed prima facie evidence of the producer's knowledge that replacement was intended in connection with the identified transactions, and these patterns of action shall be deemed prima facie evidence of the producer's intent to violate these rules.

**16.29(3)** Where it is determined that the requirements of these rules have not been met, the replacing insurer shall provide to the policy owner an in-force illustration if available or policy summary for the replacement policy or available disclosure document for the replacement contract and the appropriate notice regarding replacements in Appendix A or C.

**16.29(4)** Violations of these rules shall subject the violators to penalties that may include the revocation or suspension of a producer's or insurer's license, monetary fines, the forfeiture of any commissions or compensation paid to a producer as a result of the transaction in connection with which the violations occurred, or any other penalties authorized by Iowa Code chapter 507B or Iowa Administrative Code 191—Chapter 15.

**191—16.30(507B) Severability.** If any rule or portion of a rule of this division, or its applicability to any person or circumstances, is held invalid by a court, the remainder of this division, or the applicability of its provisions to other persons, shall not be affected.

These rules are intended to implement Iowa Code chapter 507B.

**APPENDIX A**

**IMPORTANT NOTICE:  
REPLACEMENT OF LIFE INSURANCE OR ANNUITIES**

This document must be signed by the applicant and the producer, if there is one, and a copy left with the applicant.

You are contemplating the purchase of a life insurance policy or annuity contract. In some cases this purchase may involve discontinuing or changing an existing policy or contract. If so, a replacement is occurring. Financed purchases are also considered replacements.

A replacement occurs when a new policy or contract is purchased and, in connection with the sale, you discontinue making premium payments on the existing policy or contract, or an existing policy or contract is surrendered, forfeited, assigned to the replacing insurer, or otherwise terminated or used in a financed purchase.

A financed purchase occurs when the purchase of a new life insurance policy involves the use of funds obtained by the withdrawal or surrender of or by borrowing some or all of the policy values, including accumulated dividends, of an existing policy, to pay all or part of any premium or payment due on the new policy. A financed purchase is a replacement.

You should carefully consider whether a replacement is in your best interest. You will pay acquisition costs and there may be surrender costs deducted from your policy or contract. You may be able to make changes to your existing policy or contract to meet your insurance needs at less cost. A financed purchase will reduce the value of your existing policy and may reduce the amount paid upon the death of the insured.

We want you to understand the effects of replacements before you make your purchase decision and ask that you answer the following questions and consider the questions on the back of this form.

1. Are you considering discontinuing making premium payments, surrendering, forfeiting, assigning to the insurer, or otherwise terminating your existing policy or contract?  YES  NO
2. Are you considering using funds from your existing policies or contracts to pay premiums due on the new policy or contract?  YES  NO

If you answered "yes" to either of the above questions, list each existing policy or contract you are contemplating replacing (include the name of the insurer, the insured, and the contract number if available) and whether each policy will be replaced or used as a source of financing:

INSURER NAME	CONTRACT OR POLICY #	INSURED	REPLACED (R) OR FINANCING (F)
1.			
2.			
3.			

Make sure you know the facts. Contact your existing company or its agent for information about the old policy or contract. [If you request one, an in-force illustration, policy summary or available disclosure document must be sent to you by the existing insurer.] Ask for and retain all sales material used by the agent in the sales presentation. Be sure that you are making an informed decision.

The existing policy or contract is being replaced because \_\_\_\_\_.

I certify that the responses herein are, to the best of my knowledge, accurate:

---

 Applicant's Signature and Printed Name

Date

---

 Producer's Signature and Printed Name

Date

I do not want this notice read aloud to me. \_\_\_\_\_ (Applicants must initial only if they do not want the notice read aloud.)

A replacement may not be in your best interest, or your decision could be a good one. You should make a careful comparison of the costs and benefits of your existing policy or contract and the proposed policy or contract. One way to do this is to ask the company or agent that sold you your existing policy or contract to provide you with information concerning your existing policy or contract. This may include an illustration of how your existing policy or contract is working now and how it would perform in the future based on certain assumptions. Illustrations should not, however, be used as a sole basis to compare policies or contracts. You should discuss the following with your agent to determine whether replacement or financing your purchase makes sense:

**PREMIUMS:** Are they affordable?

Could they change?

You're older—are premiums higher for the proposed new policy?

How long will you have to pay premiums on the new policy? On the old policy?

**POLICY VALUES:** New policies usually take longer to build cash values and to pay dividends. Acquisition costs for the old policy may have been paid; you will incur costs for the new one.

What surrender charges do the policies have?

What expense and sales charges will you pay on the new policy?

Does the new policy provide more insurance coverage?

**INSURABILITY:** If your health has changed since you bought your old policy, the new one could cost you more, or you could be turned down.

You may need a medical exam for a new policy.

[Claims on most new policies for up to the first two years can be denied based on inaccurate statements. Suicide limitations may begin anew on the new coverage.]

**IF YOU ARE KEEPING THE OLD POLICY AS WELL AS THE NEW POLICY:**

How are premiums for both policies being paid?

How will the premiums on your existing policy be affected?

Will a loan be deducted from death benefits?

What values from the old policy are being used to pay premiums?

**IF YOU ARE SURRENDERING AN ANNUITY OR INTEREST SENSITIVE LIFE PRODUCT:**

Will you pay surrender charges on your old contract?

What are the interest rate guarantees for the new contract?

Have you compared the contract charges or other policy expenses?

**OTHER ISSUES TO CONSIDER FOR ALL TRANSACTIONS:**

What are the tax consequences of buying the new policy?

Is this a tax-free exchange? (See your tax advisor.)

Is there a benefit from favorable "grandfathered" treatment of the old policy under the federal tax code?

Will the existing insurer be willing to modify the old policy?

How does the quality and financial stability of the new company compare with your existing company?

**APPENDIX A1**—Rescinded IAB 6/14/00, effective 5/17/00.

**APPENDIX B**

**NOTICE REGARDING REPLACEMENT  
REPLACING YOUR LIFE INSURANCE POLICY OR ANNUITY?**

Are you thinking about buying a new life insurance policy or annuity and discontinuing or changing an existing one? If you are, your decision could be a good one—or a mistake. You will not know for sure unless you make a careful comparison of your existing benefits and the proposed policy or contract's benefits.

Make sure you understand the facts. You should ask the company or agent that sold you your existing policy or contract to give you information about it.

Hear both sides before you decide. This way you can be sure you are making a decision that is in your best interest.

**APPENDIX C**

**IMPORTANT NOTICE:  
REPLACEMENT OF LIFE INSURANCE OR ANNUITIES**

You are contemplating the purchase of a life insurance policy or annuity contract. In some cases this purchase may involve discontinuing or changing an existing policy or contract. If so, a replacement is occurring. Financed purchases are also considered replacements.

A replacement occurs when a new policy or contract is purchased and, in connection with the sale, you discontinue making premium payments on the existing policy or contract, or an existing policy or contract is surrendered, forfeited, assigned to the replacing insurer, or otherwise terminated or used in a financed purchase.

A financed purchase occurs when the purchase of a new life insurance policy involves the use of funds obtained by the withdrawal or surrender of or by borrowing some or all of the policy values, including accumulated dividends, of an existing policy, to pay all or part of any premium or payment due on the new policy. A financed purchase is a replacement.

You should carefully consider whether a replacement is in your best interest. You will pay acquisition costs and there may be surrender costs deducted from your policy or contract. You may be able to make changes to your existing policy or contract to meet your insurance needs at less cost. A financed purchase will reduce the value of your existing policy and may reduce the amount paid upon the death of the insured.

We want you to understand the effects of replacements and ask that you answer the following questions and consider the questions on the back of this form.

1. Are you considering discontinuing making premium payments, surrendering, forfeiting, assigning to the insurer, or otherwise terminating your existing policy or contract?  YES  NO
2. Are you considering using funds from your existing policies or contracts to pay premiums due on the new policy or contract?  YES  NO

Please list each existing policy or contract you are contemplating replacing (include the name of the insurer, the insured, and the contract number if available) and whether each policy will be replaced or used as a source of financing:

INSURER NAME	CONTRACT OR POLICY #	INSURED	REPLACED (R) OR FINANCING (F)
1.			
2.			
3.			

Make sure you know the facts. Contact your existing company or its agent for information about the old policy or contract. [If you request one, an in-force illustration, policy summary or available disclosure document must be sent to you by the existing insurer.] Ask for and retain all sales material used by the agent in the sales presentation. Be sure that you are making an informed decision.

I certify that the responses herein are, to the best of my knowledge, accurate:

\_\_\_\_\_  
Applicant's Signature and Printed Name

\_\_\_\_\_  
Date

A replacement may not be in your best interest, or your decision could be a good one. You should make a careful comparison of the costs and benefits of your existing policy or contract and the proposed policy or contract. One way to do this is to ask the company or agent that sold you your existing policy or contract to provide you with information concerning your existing policy or contract. This may include an illustration of how your existing policy or contract is working now and how it would perform in the future based on certain assumptions. Illustrations should not, however, be used as a sole basis to compare policies or contracts. You should discuss the following with your agent to determine whether replacement or financing your purchase makes sense:

**PREMIUMS:** Are they affordable?

Could they change?

You're older—are premiums higher for the proposed new policy?

How long will you have to pay premiums on the new policy? On the old policy?

**POLICY VALUES:** New policies usually take longer to build cash values and to pay dividends. Acquisition costs for the old policy may have been paid; you will incur costs for the new one.

What surrender charges do the policies have?

What expense and sales charges will you pay on the new policy?

Does the new policy provide more insurance coverage?

**INSURABILITY:** If your health has changed since you bought your old policy, the new one could cost you more, or you could be turned down.

You may need a medical exam for a new policy.

[Claims on most new policies for up to the first two years can be denied based on inaccurate statements. Suicide limitations may begin anew on the new coverage.]

**IF YOU ARE KEEPING THE OLD POLICY AS WELL AS THE NEW POLICY:**

How are premiums for both policies being paid?

How will the premiums on your existing policy be affected?

Will a loan be deducted from death benefits?

What values from the old policy are being used to pay premiums?

**IF YOU ARE SURRENDERING AN ANNUITY OR INTEREST SENSITIVE LIFE PRODUCT:**

Will you pay surrender charges on your old contract?

What are the interest rate guarantees for the new contract?

Have you compared the contract charges or other policy expenses?

**OTHER ISSUES TO CONSIDER FOR ALL TRANSACTIONS:**

What are the tax consequences of buying the new policy?

Is this a tax-free exchange? (See your tax advisor.)

Is there a benefit from favorable "grandfathered" treatment of the old policy under the federal tax code?

Will the existing insurer be willing to modify the old policy?

How does the quality and financial stability of the new company compare with your existing company?

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CHAPTER 28  
IOWA SENIOR LIVING PROGRAM—HOME- AND COMMUNITY-BASED  
SERVICES FOR SENIORS

PREAMBLE

These rules implement provisions of 2000 Iowa Acts, Senate File 2193, which establish an overall goal of moving toward a balanced, comprehensive, affordable, high quality long-term care system.

Funds are available to area agencies on aging and subcontracting long-term care providers for designing and expanding home- and community-based services to low- and moderate-income seniors to promote independence and delay the use of institutional care.

**321—28.1(78GA,SF2193) Purpose.**

**28.1(1)** The purpose of the Iowa senior living program, home- and community-based services for seniors, is to create a comprehensive long-term care system that is consumer-directed, provides a balance between institutional and noninstitutional services, and contributes to the quality of the lives of Iowans.

**28.1(2)** Funds appropriated from the senior living trust fund for home- and community-based services for seniors shall be used for activities related to the design, maintenance, or expansion of home- and community-based services for seniors including, but not limited to, adult day care, personal care, respite, homemaker, chore, and transportation services, which promote the independence of seniors and delay the use of institutional care by seniors with low and moderate incomes.

**321—28.2(78GA,SF2193) Definitions.** For the purposes of these rules, the following definitions apply unless the context otherwise requires:

“AAA” or “*area agency on aging*” means the grantee agency in a planning and service area designated by the commission for the Iowa department of elder affairs to develop and administer the multi-year area plan for a comprehensive and coordinated system of services for elders and to carry out the duties specified in Iowa Code chapter 231.

“*Administration cost*” means the direct and indirect costs incurred by the grantee in managing the grant.

“*Client participation*” means a payment system with an established fee or cost that allows:

1. A senior with low income to receive services for a voluntary contribution towards the cost of the service;
2. A senior with moderate income to receive services at less than the full service delivery cost; and
3. A senior with above moderate income to purchase services at full cost.

“*Community-based adult services committee*” or “*CBAS*” means the group consisting of representatives appointed by the departments of elder affairs, human services, inspections and appeals, and public health; Iowa Foundation for Medical Care; Iowa association of area agencies on aging; and Iowa state association of counties.

“*Contract*” means the purchase of units of services on behalf of an aggregate clientele.

“*Department*” means the department of elder affairs, the state agency responsible for administration of the Older Americans Act, and Iowa Code chapter 231.

“*Direct service*” means a service to a client that is administered by the area agency on aging and provided by employees of the area agency on aging.

“*Grant*” means the use of funds to underwrite an operation in support of the existence of a specific service provider.

*"Income"* means wages, salaries, business income, social security benefits, veterans administration benefits, disability payments (government or private), retirement or pension plan income, annuity income, interest income, supplemental security income, welfare payments, and other cash income.

*"Long-term care services"* means those services specified under the medical assistance home- and community-based services waiver for the elderly or the National Aging Program Information System (NAPIS) and designed to directly promote the independence of seniors and to delay the use of institutional care by seniors with low and moderate income.

*"Low income"*:

1. For purposes of determining client eligibility for financial assistance under 2000 Iowa Acts, Senate File 2193, section 7, means income of less than 300 percent of SSI;

2. For purposes of funding distribution means income at or below the official poverty guideline as defined each year by the Office of Management and Budget and adjusted by the Secretary of the U.S. Department of Health and Human Services.

*"Medical assistance program"* means the financial assistance programs established in cooperation between the state of Iowa and the Health Care Financing Administration (HCFA) under the Medicaid state plan for lower income Iowans with health and social needs.

*"Moderate income"* means income that is equal to or greater than 300 percent of SSI and less than 300 percent of the federal poverty guideline as defined each year by the Office of Management and Budget and adjusted by the Secretary of the U.S. Department of Health and Human Services.

*"National Aging Program Information System"* or *"NAPIS"* means the reporting system in which the Older Americans Act requires participation by providers receiving funding from the provisions of the Act.

*"Older Americans Act"* means the Older Americans Act of 1965, as amended through December 31, 1992 (Public Law 89-73).

*"Provider"* means individuals, agencies, public and private for-profit and not-for-profit organizations and other entities delivering long-term care services funded under these rules.

*"Rural"* means incorporated areas with a population of less than 20,000 and unincorporated areas.

*"Senior"* means an individual who is 60 years of age or older as provided in Iowa Code section 231.4 and 42 U.S.C. § 1396(u)(4).

*"Senior living coordinating unit"* or *"SLCU"* means the senior living coordinating unit created within the department of elder affairs, pursuant to Iowa Code section 231.58, or its designee.

*"Senior living program"* means the senior living program created in 2000 Iowa Acts, Senate File 2193, to provide for long-term care services, long-term care service development, and nursing facility conversion.

*"Senior living trust"* means the funding mechanism established in 2000 Iowa Acts, Senate File 2193.

*"Subcontractor of the area agencies on aging"* means a provider receiving funds by contract or similar arrangement with an area agency on aging.

*"Supplemental security income (SSI)"* means the income level defined each year by the Social Security Administration (SSA) for the nationwide federal assistance program administered by SSA, which guarantees the defined minimum level of income for needy aged, blind, or disabled individuals by providing a basic cash support.

“Underserved” means:

1. An area underserved for long-term care service; and
2. For service funding purposes, also means individuals aged 60 and over who are unable to access needed services or areas where the service identified as needed is not available either because there is no provider for that service or because existing providers of that service are regularly unable to deliver the amount of service identified as needed by individuals aged 60 and over.

“Voucher” means the mechanism used to purchase a specific service from a vendor on behalf of an individual client or clients.

**321—28.3(78GA,SF2193) Disbursement of funds.**

**28.3(1) Administration.** The department may use up to 7 percent of the service dollars appropriated to the department from the senior living trust fund for purposes of implementing and administering the functions delegated to the department by the Iowa senior living program Act.

**28.3(2) Identification of service needs.**

*a.* The department in collaboration with the area agencies on aging shall conduct on a four-year cycle a statewide needs assessment designed to identify individuals aged 60 and over and areas underserved for long-term care services.

*b.* The department may withhold up to \$100,000 for each four-year cycle from the service dollars appropriated to the department from the senior living trust fund to carry out this function.

*c.* The department shall seek partners and other funding sources to share the cost of implementing the survey.

**28.3(3) Funding formula.** The department shall allocate senior living trust funds to the area agencies on aging as established in 2000 Iowa Acts, Senate File 2193, section 7, utilizing, at a minimum, a formula that:

*a.* Shall triple weight all of the following:

- (1) Individuals 75 years of age and older.
- (2) Individuals aged 60 and older who are members of a racial minority.
- (3) Individuals 60 years of age and older who reside in rural areas.
- (4) Individuals who are 60 years of age and older who have incomes at or below the official poverty guideline as defined each year by the Office of Management and Budget and adjusted by the Secretary of the U.S. Department of Health and Human Services.

*b.* Shall single weight for individuals 60 years of age and older.

The department shall use the best available population data, including but not limited to U.S. census reports, to calculate allotments under this subrule.

**28.3(4) Process for disbursement of funds to the AAAs for state fiscal year 2001.**

*a.* Area agencies on aging shall submit area plan addenda by August 1, 2000.

*b.* Plans for disbursement of senior living trust funds shall be submitted to the CBAS and SLCU for review and advice prior to final approval by the commission for the department of elder affairs.

*c.* First and second quarter funds shall be transferred to the AAAs following commission approval and receipt of funds, but no later than October 1, 2000. Funds shall be transferred on the first day of the quarter thereafter.

**28.3(5) Process for disbursement of funds to the AAAs for subsequent state fiscal years.**

*a.* The process shall be incorporated into the area plan process outlined in the Older Americans Act of 1965, 42 U.S.C. Sec. 306 and 321—Chapter 4.

*b.* Plans for disbursement of senior living trust funds shall be submitted to the CBAS and SLCU for review and advice prior to final approval by the commission for the department of elder affairs.

**321—28.4(78GA,SF2193) Use of funds by AAAs.****28.4(1) Eligible use of funds.**

a. The area agency on aging may use up to 7 percent of the service dollars for purposes of developing, implementing and administering local long-term care services, and for collecting and reporting required data.

b. For state fiscal year 2001 only, the AAA may use up to 10 percent of the service dollars for area costs associated with creating and implementing, in cooperation with the department, the required reporting mechanism for tracking met and unmet needs as well as the statewide computerized data base of information on services available to older Iowans.

c. The remaining funds contracted to the AAAs by the department from the senior living trust fund will be used to:

(1) Provide long-term care services to enhance the ability of the client to appropriately avoid or delay institutionalization;

(2) Provide services through:

1. Enhancement and expansion of existing providers to serve new clients, provide new units of service to existing clients, and serve new areas;

2. Identification and development of new providers; and

3. Addition of a new funding source to maintain current service levels when service levels would otherwise decline due to a loss of purchasing power; and

(3) Provide services to low- and moderate-income Iowans aged 60 and over.

d. The area agencies on aging may use client participation for services funded under 2000 Iowa Acts, Senate File 2193, section 7. When client participation is used:

(1) The area agency on aging shall not use Older Americans Act funding for the same service category when providing direct service.

(2) The area agency on aging shall not contract Older Americans Act funds and senior living trust funds to a provider for the same service category.

(3) Eligibility shall be based on self-declaration by the client or on declaration on the client's behalf by the client's authorized representative. If the provider or AAA has reason to believe that the declaration is inaccurate or misrepresents the client's financial status, the provider or AAA may require documentation of income and resources, and subsequently may discontinue further financial assistance from the senior living trust fund if the individual is found ineligible.

(4) Funds generated through client participation must be used to purchase the respective service for which the funds were received.

e. Senior living trust fund dollars shall not be used to purchase a service when the client is eligible for third-party purchase of that service by sources such as Medicare, Medicaid, Medicaid home- and community-based services (HCBS) waiver and private long-term care insurance.

f. The AAA shall not use senior living trust funds to replace existing funding for a long-term care service. The department may grant an exception in order to enhance access to a service if the displaced funding is subsequently dedicated by the AAA to another long-term care service for the elderly and results in an increase in total AAA funding for long-term care services to seniors equal to the senior living trust fund dollars used for replacement.

**28.4(2) Reallocation of unobligated funds.**

a. If the department determines prior to the end of the fiscal year that an AAA will have unused funds, the department may reallocate the unused funds to one or more AAAs in accordance with demonstrated utilization. The AAAs receiving these reallocated funds shall obligate them by the end of the fiscal year in which they are reallocated.

b. Any unobligated funds remaining at the end of the state fiscal year shall be returned to the department and deposited in the Iowa senior living trust fund.

**321—28.5(78GA,SF2193) Disbursement of funds to AAA subcontractors.****28.5(1) *Criteria to receive senior living trust funds as a subcontractor of an AAA.***

a. The applicant for senior living trust funds must demonstrate that the proposed long-term care alternative service or services:

(1) Are responsive to the service priorities identified by the AAA; or

(2) Will address other significant unmet service needs of eligible seniors as documented by the applicant.

b. The applicant must document the ability to provide the proposed services and the related administration, financial tracking and reporting required by a subcontractor under these rules.

c. The subcontractor must agree to meet the criteria set out in this subrule in addition to criteria established by the AAA in its request for proposal and contract.

d. The subcontractor shall ensure that all employees providing in-home care to clients have had a criminal background check and have been cleared for said functions in accordance with Iowa Code section 135C.33.

e. No senior living trust funds shall be contracted to a provider that has been prohibited from participating in the Medicare or medical assistance programs.

f. The subcontractor shall commit to seeking third-party reimbursement when available.

**28.5(2) *Disbursement of funds to the AAA subcontractors.***

a. Method. Area agencies on aging may use the method or methods of disbursing funds determined to best ensure effective provision of services that address identified and documented unmet needs including contracts, grants, vouchers and direct services.

b. Process for disbursement for state fiscal year 2001.

(1) Each AAA shall issue a request for proposals and application packets no later than June 10, 2000.

(2) The application packet shall contain at a minimum the standard application format and accompanying forms; an explanation of required documentation including, but not limited to, community support, provider capacity to deliver the proposed service, and provider commitment to deliver cost-effective long-term care services to low- and moderate-income elders; a list of priority services for the area; and a time line for and explanation of the AAA's process.

(3) Provider applications shall be due at the respective AAA office by July 1, 2000, for review by AAA staff and advisory boards.

(4) Funds shall be disbursed by the AAAs following the receipt of funds.

c. For subsequent state fiscal years, senior living trust fund service dollars appropriated under 2000 Iowa Acts, Senate File 2193, section 7, shall be disbursed to subcontractors through the area plan process as described in 321—4.20(231) and 321—4.21(231).

**28.5(3) *Prioritization of service contracts.*** The AAA may prioritize service contracts and funding levels for reasons that include, but are not limited to, the following:

a. Local prioritization to fulfill unmet needs.

b. Provider commitment matching funds.

c. Provider commitment to use client participation.

d. Cost.

e. History of providing quality service.

**28.5(4) *Eligible uses of senior living trust funds by subcontractors.***

a. Funds contracted by an AAA from the senior living trust fund shall be used to provide long-term care services to enhance the ability of Iowans aged 60 and over with low or moderate income to appropriately avoid or delay institutionalization.

b. An AAA subcontractor may use client participation for services funded under 2000 Iowa Acts, Senate File 2193, section 7, for persons with moderate income or above if the subcontractor does not receive Older Americans Act funding for the same service category.

c. The AAA subcontractor shall not use senior living trust funds to replace existing funding for a long-term care service. The AAA may grant an exception in order to enhance access to a service if the displaced funding is subsequently dedicated by the subcontractor to another long-term care service for the elderly and results in an increase in total funding for long-term care services by the subcontractor to seniors equal to the senior living trust fund dollars used for replacement.

**321—28.6(78GA,SF2193) Reporting requirements.**

**28.6(1) Area agency on aging subcontractors.**

- a. Area agency on aging subcontractors shall submit monthly reports to the area agency on aging.
- b. Subcontractor monthly reports shall provide data by month and year to date for:
  - (1) Total number of clients served;
  - (2) Number of clients receiving financial assistance from medical assistance programs; and
  - (3) By service category, for each client receiving financial assistance from senior living trust funds, the number of units of service provided, the number of units of service not provided, and the reasons services were not provided, and expenditures.
- c. Subcontractors shall provide other information as requested by the contracting AAA.
- d. Subcontractors shall participate in the NAPIS client registration process.
- e. Reporting forms are available from the contracting AAA.

**28.6(2) Area agencies on aging.**

- a. Area agencies on aging shall at a minimum submit monthly reports to the department.
- b. Each AAA shall use the NAPIS client registration process for clients receiving assistance from the senior living trust fund.
- c. Each AAA shall report by month and year to date:
  - (1) Total number of clients served;
  - (2) By service category, the number of clients receiving financial assistance from senior living trust funds, the number of units of service provided, number of units of service not provided and the reasons services were not provided, and expenditures;
  - (3) Utilization of funds; and
  - (4) Performance outcomes from funded services.
- d. Original report forms for duplication are available from the department.

**28.6(3) Department.**

- a. The department shall submit bimonthly reports to the senior living coordinating unit that include the following information by month and year to date:
  - (1) Total number of clients served;
  - (2) Number of clients receiving financial assistance from medical assistance programs;
  - (3) By service category, an aggregate for clients receiving financial assistance from senior living trust funds, the number of units of service provided, number of units of service not provided and the reasons services were not provided, and expenditures; and
  - (4) Comparative data for services not provided.
- b. The department, in cooperation with the department of human services, shall submit an annual report to the governor and the general assembly concerning the impact of moneys disbursed under 2000 Iowa Acts, Senate File 2193, on the availability of long-term care services in Iowa. The report shall include, but not be limited to, year-end totals for and analysis of the information reported bi-monthly by the departments to the SLCU.

These rules are intended to implement 2000 Iowa Acts, Senate File 2193, sections 7, 9 and 10.

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- Region 4: Harrison, Shelby, Audubon, Pottawattamie, Cass, Mills, Montgomery, Fremont, and Page.
  - Region 5: Guthrie, Dallas, Polk, Jasper, Adair, Madison, Warren, Marion, Adams, Union, Clarke, Lucas, Taylor, Ringgold, Decatur, and Wayne.
  - Region 6: Benton, Linn, Poweshiek, Iowa, Johnson, Muscatine, Mahaska, Keokuk, Washington, Louisa, Monroe, Wapello, Jefferson, Henry, Des Moines, Appanoose, Davis, Van Buren, and Lee.
- “*Third-party administrator*” shall mean the person or entity with which the department contracts to provide administrative services for the HAWK-I program.

**441—86.2(514I) Eligibility factors.** A child must meet the following eligibility factors to participate in the HAWK-I program.

**86.2(1) Age.** The child shall be under 19 years of age. Eligibility for the program ends the first day of the month following the month of the child’s nineteenth birthday.

**86.2(2) Income.** Countable income shall not exceed 200 percent of the federal poverty level for a family of the same size when determining initial and ongoing eligibility for the program.

*a. Countable income.* When determining initial and ongoing eligibility for the HAWK-I program, all earned and unearned income, unless specifically exempted, shall be countable.

(1) **Earned income.** The earned income of all parents, spouses, and children under the age of 19 who are not students shall be countable. Income shall be countable earned income when an individual produces it as a result of the performance of services. Earned income is income in the form of a salary, wages, tips, bonuses, and commissions earned as an employee, or net profit from self-employment.

1. **Earned income from employment.** Earned income from employment means total gross income.

2. **Earned income from self-employment.** Earned income from self-employment means the net profit determined by comparing gross income with the allowable costs of producing the income. The net profit from self-employment income shall be determined according to the provisions of 441—subparagraphs 75.57(2)“f”(1) through (7). Additionally, the cost of depreciation of capital assets identified for income tax purposes shall be allowed as a cost of doing business for self-employed persons. A person is considered self-employed when any of the following conditions exist. The person:

- Is not required to report to the office regularly except for specific purposes such as sales training meetings, administrative meetings, or evaluation sessions; or
- Establishes the person’s own working hours, territory, and methods of work; or
- Files quarterly reports of earnings, withholding payments, and FICA payments to the Internal Revenue Service.

3. **Earned income deduction.** Each person in the household whose nonexempt income, earned as an employee or from self-employment, is considered in determining HAWK-I eligibility is entitled to a 20 percent earned income deduction. The deduction is intended to include work-related expenses other than child care. These expenses may include taxes, transportation, meals, uniforms and other work-related expenses.

(2) **Unearned income.** The unearned income of all parents, spouses, and children under the age of 19 shall be counted. Unearned income is any income in cash that is not gained by labor or service. The available unearned income shall be the amount remaining after the withholding of taxes (Federal Insurance Contribution Act, state and federal income taxes). Examples of unearned income include, but are not limited to:

1. **Social security benefits.** Social security income is the amount of the entitlement before withholding of a Medicare premium.
2. **Child support and alimony payments received for a member of the family.**
3. **Unemployment compensation.**
4. **Veterans benefits.**

(3) Recurring lump sum income. Earned and unearned lump sum income that is received on a regular basis shall be counted and prorated over the time it is intended to cover. These payments may include, but are not limited to:

1. Annual bonuses.
2. Lottery winnings that are paid out annually.

b. *Exempt income.* The following shall not be counted toward the income limit when establishing eligibility for the HAWK-I program.

(1) Nonrecurring lump sum income. Nonrecurring lump sum income is income that is not expected to be received more than once. These payments may include, but are not limited to:

1. An inheritance.
2. A one-time bonus.
3. Lump sum lottery winnings.
4. Other one-time payments.

(2) Food reserves from home-produced garden products, orchards, domestic animals, and the like, when used by the household for its own consumption.

(3) The value of the coupon allotment in the Food Stamp Program.

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

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

(6) Any benefits received under Title III-C, Nutrition Program for the Elderly, of the Older Americans Act.

(7) Benefits paid to eligible households under the Low Income Home Energy Assistance Act of 1981.

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

(9) Interest and dividend income.

(10) Any judgment funds that have been or will be distributed per capita or held in trust for members of any Indian tribe.

(11) Payments to volunteers participating in the Volunteers in Service to America (VISTA) program.

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

(13) Tax-exempt portions of payments made pursuant to the Alaskan Native Claims Settlement Act.

(14) Experimental housing allowance program payments.

(15) The income of a Supplemental Security Income (SSI) recipient.

(16) Income of an ineligible child if the family chooses not to include the child in the eligibility determination in accordance with the provisions of paragraph 86.2(3)"c."

(17) Unearned income in kind.

(18) Family support subsidy program payments.

(19) All earned and unearned educational funds of an undergraduate or graduate student or a person in training. However, any additional amount of educational funds received for the person's dependents that are in the eligible group shall be considered as nonexempt income.

(20) Bona fide loans.

(21) Payments made from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in the *In re Agent Orange product liability litigation*, M.D.L. No. 381 (E.D.N.Y.).

- (3) Provides a specific medical record on demand.
  - (4) Meets state and federal reporting requirements applicable to the HAWK-I program.
  - (5) Maintains the confidentiality of medical records information and releases the information only in accordance with established policy below:
    1. All medical records of the enrollee shall be confidential and shall not be released without the written consent of the enrollee or responsible party.
    2. Written consent is not required for the transmission of medical records information to physicians, other practitioners, or facilities that are providing services to enrollees under a subcontract with the plan. This provision also applies to specialty providers who are retained by the plan to provide services which are infrequently used, which provide a support system service to the operation of the plan, or which are of an unusual nature. This provision is also intended to waive the need for written consent for department staff and the third-party administrator assisting in the administration of the program, reviewers from the peer review organization (PRO), monitoring authorities from the Health Care Financing Administration (HCFA), the plan itself, and other subcontractors which require information as described under numbered paragraph "5" below.

EXCEPTION: Written consent is required for the transmission of medical records relating to substance abuse, HIV, or mental health treatment in accordance with state and federal laws.
    3. Written consent is not required for the transmission of medical records information to physicians or facilities providing emergency care pursuant to paragraph 86.15(2) "b."
    4. Written consent is required for the transmission of the medical records information of a former enrollee to any physician not connected with the plan.
    5. The extent of medical records information to be released in each instance shall be based upon a test of medical necessity and a "need to know" on the part of the practitioner or a facility requesting the information.
    6. Medical records maintained by subcontractors shall meet the requirements of this rule.
      - b. Each plan shall provide at a minimum reports and plan information to the third-party administrator as follows:
        - (1) A list of providers of medical services under the plan.
        - (2) Information regarding the plan's appeals process.
        - (3) A plan for a health improvement program.
        - (4) Periodic financial, utilization and statistical reports as required by the department.
        - (5) Encounter data on a monthly basis as required by the department.
        - (6) Time-specific reports which define activity for child health care, appeals, and other designated activities which may, at the department's discretion, vary among plans, depending on the services covered and other differences.
        - (7) Other information as directed by the department.
- 86.15(10) Systems.** The participating health plan shall maintain data files that are compatible with the department's and third-party administrator's systems.
- 86.15(11) Payment to the participating health plan.**
- a. In consideration for all services rendered by a plan, the plan shall receive a payment each month for each enrollee. This capitation rate represents the total obligation of the department with respect to the costs of medical care and services provided to the enrollees.
  - b. The capitation rate shall be actuarially determined by the department July of 2000 and each fiscal year thereafter using statistics and data assumptions and relevant experience derived from similar populations.

c. The capitation rate does not include any amounts for the recoupment of losses suffered by the plan for risks assumed under the current or any previous contract. The plan accepts the rate as payment in full for the contracted services. Any savings realized by the plan due to lower utilization from a less frequent incidence of health problems among the enrolled population shall be wholly retained by the plan.

d. If an enrollee has third-party coverage or a responsible party other than the HAWK-I program available for purposes of payment for medical expenses, it is the right and responsibility of the plan to investigate these third-party resources and attempt to obtain payment. The plan shall retain all funds collected through third-party sources. A complete record of all income from these sources must be maintained and made available to the department.

**86.15(12) Quality assurance.** The plan shall have in effect an internal quality assurance system.

**441—86.16(514I) Clinical advisory committee.** Members of the clinical advisory committee established in accordance with the provisions of 441—paragraph 1.10(2)“c” shall be appointed to three-year terms. Members may be appointed for more than one term. No more than one-third of the membership of the committee shall rotate off the committee in any given calendar year.

These rules are intended to implement Iowa Code chapter 514I.

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- (35) Bear Creek, mouth (Fayette County) to west line of section 6, T92N, R7W, Fayette County.
- (36) Unnamed Creek (aka Glover's Creek), mouth to west line of section 15, T94N, R8W, Fayette County.
- (37) Grannis Creek, mouth to west line of section 36, T93N, R8W, Fayette County.
- (38) Mink Creek, mouth to west line of section 15, T93N, R7W, Fayette County.
- (39) Otter Creek, mouth (Fayette County) to confluence with Unnamed Creek (aka Glover's Creek) in section 22, T94N, R8W, Fayette County.
- (40) Nichols Creek (aka Bigalk Creek), mouth (section 18, T100N, R10W, Winneshiek County) to west line of section 23, T100N, R11W, Howard County.
- (41) Spring Creek, mouth (Mitchell County) to north line of section 8, T97N, R16W, Mitchell County.
- (42) Turtle Creek, mouth (Mitchell County) to east line of section 7, T99N, R17W, Mitchell County.
- (43) Wapsipinicon River, from the town of McIntire to north line of section 20, T99N, R15W, Mitchell County.
- (44) Bohemian Creek, mouth (Winneshiek County) to Howard County Road 58 (west line of section 2, T97N, R11W, Howard County).
- (45) Coon Creek, mouth (Winneshiek County) to road crossing in section 13, T98N, R7W, Winneshiek County.
- (46) Smith Creek (aka Trout River), mouth to south line of section 33, T98N, R7W, Winneshiek County.
- (47) Unnamed Stream (aka Trout Run), mouth to south line of section 27, T98N, R8W, Winneshiek County.
- (48) Twin Springs Creek, mouth to springs in Twin Springs Park in section 20, T98N, R8W, Winneshiek County.
- (49) Canoe Creek (aka West Canoe Creek), from Winneshiek County Road W38 to west line of section 8, T99N, R8W, Winneshiek County.
- c.* Standards and restrictions more stringent than those applied to other waters may be applied by the commission to those waters listed below when it is determined that such more stringent standards and restrictions are necessary to fully maintain water quality at existing levels.
- West Lake Okoboji in Dickinson County.
- d.* The Mississippi River and the Missouri River do not meet the criteria of 61.2(2) "c" but nevertheless constitute waters of exceptional state and national significance. Water quality management decisions will be made in consideration of the exceptional value of the resource.
- e.* In furtherance of the policy stated in 61.2(2) "b," there shall be achieved the highest statutory and regulatory requirements for all new and existing point sources, and feasible management and regulatory programs pursuant to Section 208 of the Federal Water Pollution Control Act for nonpoint sources, both existing and proposed.
- f.* Physical and biological integrity: The waters designated as high-quality resource waters in 61.3(5) "e" will receive protection of existing uses through maintaining water quality levels necessary to fully protect existing uses or improve water quality to levels necessary to meet the designated use criterion in Tables 1, 2 and 3 and at preserving or enhancing the physical and biological integrity of these waters. This involves the protection of such features of the water body as channel alignment, bed characteristics, water velocity, aquatic habitat, and the type, distribution and abundance of existing aquatic species.
- g.* It is the intent of the antidegradation policy to protect and maintain the existing physical, biological, and chemical integrity of all waters of the state. Consistency with Iowa's water quality standards requires that any proposed activity modifying the existing physical, biological, or chemical integrity of a water of the state shall not adversely impact these resource attributes, either on an individual or cumulative basis. An adverse impact shall refer to the loss of or irreparable damage to the aquatic, semiaquatic or wildlife habitat or population, or a modification to the water body that would cause an overall degradation to the aquatic or wildlife

population and diversity. The fish and wildlife division of the department and the U.S. Fish and Wildlife Service shall serve as consultants to the department for assessing impacts. Exceptions to the preceding will be allowed only if full mitigation is provided by the applicant and approved by the department.

For those waters of the state designated as high quality or high quality resource waters and the Mississippi and Missouri Rivers, any proposed activity that will adversely impact the existing physical, chemical, or biological integrity of that water will not be consistent with Iowa's water quality standards. Mitigation will not be allowed except in highly unusual situations where no other project alternatives exist. In these cases, full mitigation must be provided by the applicant and approved by the department.

*h.* This policy shall be applied in conjunction with water quality certification review pursuant to Section 401 of the Act. In the event that activities are specifically exempted from flood plain development permits or any other permits issued by this department in 567—Chapters 70, 71, and 72, the activity will be considered consistent with this policy. Other activities not otherwise exempted will be subject to 567—Chapters 70, 71, and 72 and this policy. The repair and maintenance of a drainage district ditch as defined in 567—70.2(455B,481A) will not be considered a violation of the antidegradation policy for the purpose of implementing Title IV of these rules. United States Army Corps of Engineers (Corps) nationwide permits 3, 4, 5, 6, 7, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 25, 27, 29, 30, 31, 32, 33, 34, 36, 37, 38, 39, 40, 41, 42, 43, and 44 as promulgated March 9, 2000, are certified pursuant to Section 401 of the Clean Water Act. Regional permit numbers 2, 7, 12, and 20 of the Rock Island District of the Corps are also certified. No specific Corps permit or 401 certification is required for activities covered by these permits unless required by the nationwide permit or the Corps, and the activities are allowed subject to the terms of the nationwide and regional permits.

**61.2(3) *Minimum treatment required.*** All wastes discharged to the waters of the state must be of such quality that the discharge will not cause the narrative or numeric criteria limitations to be exceeded. Where the receiving waters provide sufficient assimilative capacity that the water quality standards are not the limiting factor, all point source wastes shall receive treatment in compliance with minimum effluent standards as adopted in rules by the department.

There are numerous parameters of water quality associated with nonpoint source runoff which are of significance to the designated water uses specified in the general and specific designations in 61.3(455B), but which are not delineated. It shall be the intent of these standards that the limits on such nonpoint source related parameters when adopted shall be those that can be achieved by best management practices as defined in the course of the continuing planning process from time to time. Existing water quality and nonpoint source runoff control technology will be evaluated in the course of the Iowa continuing planning process, and best management practices and limitations on specific water quality parameters will be reviewed and revised from time to time to ensure that the designated water uses and water quality enhancement goals are met.

**61.2(4) *Regulatory mixing zones.*** Mixing zones are recognized as being necessary for the initial assimilation of point source discharges which have received the required degree of treatment or control. Mixing zones shall not be used for, or considered as, a substitute for minimum treatment technology required by subrule 61.2(3). The objective of establishing mixing zones is to provide a means of control over the placement and emission of point source discharges so as to minimize environmental impacts. Waters within a mixing zone shall meet the general water quality criteria of subrule 61.3(2). Waters at and beyond mixing zone boundaries shall meet all applicable standards and the chronic and human health criteria of subrule 61.3(3), Tables 1 and 3, for that particular water body or segment. A zone of initial dilution may be established within the mixing zone beyond which the applicable standards and the acute criteria of subrule 61.3(3) will be met. For waters designated under subrule 61.3(5), any parameter not included in Tables 1, 2 and 3 of subrule 61.3(3), the chronic and human health criteria, and the acute criterion calculated following subrule 61.2(1), will be met at the mixing zone and zone of initial dilution boundaries, respectively.

*a.* Due to extreme variations in wastewater and receiving water characteristics, spatial dimensions of mixing zones shall be defined on a site-specific basis. These rules are not intended

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1. The first part of the report deals with the general situation in the country. It is noted that the economy is in a state of depression and that the government is unable to meet its obligations. The report also mentions that the population is suffering from a lack of food and clothing.

2. The second part of the report discusses the political situation. It is noted that the government is weak and that there is a lack of unity among the different political groups. The report also mentions that the military is in a state of disarray and that there is a risk of a coup d'état.

3. The third part of the report deals with the social situation. It is noted that there is a high level of unemployment and that the social services are inadequate. The report also mentions that there is a high level of crime and that the police are unable to maintain law and order.

4. The fourth part of the report discusses the international situation. It is noted that the country is isolated and that there is a lack of support from the major powers. The report also mentions that the country is in a state of economic blockade and that there is a risk of being completely cut off from the world economy.

5. The fifth part of the report deals with the future prospects. It is noted that the country is in a state of crisis and that there is a need for a complete reorganization of the government and the economy. The report also mentions that there is a need for international assistance and that the country must be able to meet its obligations to the world community.



## SECRETARY OF STATE[721]

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**721—21.10(43) Application for status as a political party.** A political organization which is not currently qualified as a political party may file an application for determination of political party status with the state commissioner of elections. The application may be filed after the completion of the executive council's canvass of votes for the general election, but not later than one year after the date of the election at which the organization's candidate for President of the United States or governor received at least 2 percent of the vote.

**21.10(1) Application form.** The application shall be in substantially the following form:

STATE OF IOWA  
APPLICATION FOR POLITICAL PARTY STATUS

To the State Commissioner of Elections:

At the General Election held on November \_\_\_\_, \_\_\_\_\_, a candidate of the political organization named below received at least 2 percent of the total number of votes cast for the office of

President of the United States

Governor of Iowa

Pursuant to the requirements of Iowa Code section 43.2, we hereby request that the State Commissioner of Elections notify the state registrar of voters, the voter registration commission and the 99 counties of Iowa that the political organization named below qualifies as a political party under Iowa law.

Political organization name: \_\_\_\_\_

(Please print the party name in the form it should appear on ballots, voter registration forms, and other records.)

Name of candidate for President or Governor: \_\_\_\_\_

Signed: \_\_\_\_\_  
Candidate

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_

Signed: \_\_\_\_\_  
Chairperson of Political Organization

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_

Date submitted: \_\_\_\_\_

Office use only:

Office of  President of the United States

Governor of Iowa

Total number of votes received for office: \_\_\_\_\_

Number of votes received by applicant: \_\_\_\_\_

Percentage of total: \_\_\_\_\_

The application is  rejected.

approved, effective 21 days from date of approval.

\_\_\_\_\_  
Secretary of State and State Commissioner of Elections

Date: \_\_\_\_\_

**21.10(2) Response.** If the political organization meets the requirements established in Iowa Code section 43.2, the commissioner shall declare that the organization has qualified as a political party, effective 21 days after the application is approved. If the organization does not meet the requirements, the state commissioner shall immediately notify the applicant in writing of the reason for the rejection of the application.

**21.10(3) Disqualification of political party.** If at the close of nominations for the general election a political party has not nominated a candidate for the office of President of the United States, or for governor, as the case may be, the political party shall be disqualified immediately.

If the candidate of a political party for President of the United States or for governor, as the case may be, does not receive 2 percent of the votes cast for that office at a general election, the political party shall be disqualified. The effective date of the disqualification shall be the date of the completion of the state canvass of votes.

When a political party is disqualified, the state commissioner shall immediately notify the chairperson or central committee of the disqualified political party.

**21.10(4) Notice of qualification and disqualification of political parties.** The state commissioner of elections shall immediately notify the state registrar of voters, the voter registration commission, and the county commissioners of elections when a political party is qualified or disqualified. The notice shall include the name of the political party and the date upon which change in political party status becomes effective.

The state commissioner of elections shall also publish notice of the qualification or disqualification of a political party in a newspaper of general circulation in each congressional district. The publication shall be made within 30 days of the approval of an application for qualification or within 30 days of the effective date of a disqualification.

This rule is intended to implement Iowa Code sections 43.2 and 47.1.

**721—21.11(44) Nonparty political organizations—nominations by petition.** Rescinded IAB 9/10/97, effective 10/15/97.

**721—21.12 to 21.19** Reserved.

**721—21.20(62) Election contest costs.** In determining the amount of the bond for election contests, the commissioner shall consider the following aspects of the cost of the election contest proceedings:

1. Fees as provided in Iowa Code section 62.22.
2. Fees for judges as provided in Iowa Code section 62.23.
3. The cost of making an official record of the proceedings.

**721—21.21(62) Limitations.** The amount of the bond shall not include costs not directly related to the contest court proceedings. Specifically, the amount of the bond shall not be intended to replace any potential lost income to the county caused by the delay in implementing the decision of the voters at the election being contested.

Rules 721—21.20(62) and 721—21.21(62) are intended to implement Iowa Code sections 62.6, 62.22, 62.23, and 62.24.

**721—21.22 to 21.24** Reserved.

**721—21.25(50) Administrative recounts.** When the commissioner suspects that voting equipment used in the election malfunctioned or that programming errors may have affected the outcome of the election, the commissioner may request an administrative recount after the day of the election but not later than three days after the canvass of votes. The request shall be made in writing to the board of supervisors explaining the nature of the problem and listing the precincts to be recounted and which offices and questions shall be included in the administrative recount.

The recount shall be conducted by members of the special precinct board following the provisions of Iowa Code sections 50.48 and 50.49. The recount board may use a computer program board which was not used in the election to compare with the suspected defective one.

This rule is intended to implement 1997 Iowa Acts, House File 636, section 59.

**721—21.26 to 21.199** Reserved.

DIVISION II  
BALLOT PREPARATION

**721—21.200(49) Constitutional amendments and public measures.**

**21.200(1)** The order of placement on the ballot for constitutional amendments and statewide public measures to be voted upon at a single election shall be determined by the state commissioner, and a number shall be assigned to each constitutional amendment or statewide public measure by the state commissioner.

a. The number assigned by the state commissioner to each constitutional amendment or statewide public measure to appear on the ballot for a single election shall be printed on the ballot immediately preceding and above the words "Shall the following amendment to the Constitution (or public measure) be adopted?" or the words "Shall there be a Convention to revise the Constitution, and propose amendment or amendments to same?"

b. The number assigned by the state commissioner shall be printed on the ballot at least 1/8 of an inch high in the designated place.

c. Even if only one constitutional amendment or statewide public measure is to appear on a ballot to be voted upon at a single election, an identifying number shall be assigned by the state commissioner and shall be printed on the ballot in the prescribed manner.

**21.200(2)** The order of placement on the ballot for each local public measure to be voted upon at a single election shall be determined by the commissioner, and a letter shall be assigned to each local public measure by the commissioner.

a. The letter assigned by the commissioner to each local public measure to appear on a ballot for a single election shall be printed on the ballot immediately preceding and above the words "Shall the following public measure be adopted?"

b. The letter assigned by the commissioner shall be printed on the ballot at least 1/8 of an inch high in the designated place.

c. Even if only one public measure is to appear on a ballot to be voted upon at a single election, an identifying letter shall be assigned by the commissioner and shall be printed on the ballot in the prescribed manner.

**21.200(3)** The words describing proposed constitutional amendments and statewide public measures when they appear on the ballot shall be determined by the state commissioner. The state commissioner shall select the words describing the proposed constitutional amendments and statewide public measures in the following manner:

a. Not less than 150 days prior to the election at which a proposed constitutional amendment or statewide public measure is to be voted on by the voters, the state commissioner shall prepare a proposed description to be used on the ballots in administrative rule form and shall file the proposed rules with the administrative rules coordinator for publication in the Iowa Administrative Bulletin.

b. The rules shall provide that written comments regarding the proposed description will be accepted by the state commissioner for a period of time not less than 20 days after the date of publication in the Iowa Administrative Bulletin.

c. The state commissioner shall review any written comments which have been timely received and make any changes deemed to be warranted in the description to be printed on the ballots.

This rule is intended to implement Iowa Code sections 47.1 and 49.44.

**721—21.201(44) Competing nominations by nonparty political organizations.**

**21.201(1) *Nominations by convention and by petitions.*** If one or more nomination petitions are received from nonparty political organization candidates for an office for which the same organization has also nominated one candidate by convention, the candidate nominated by convention shall be considered the nominee of the organization. The names of the other candidates shall appear on the ballot as candidates "nominated by petition," and those candidates shall be notified in writing not later than seven days after the close of the filing period.

**21.201(2) *Multiple nomination petitions.*** If nomination petitions are received from more than one candidate from the same nonparty political organization for the same office and the organization has not nominated a candidate for the office by convention, the name of each of these candidates shall be written on a separate piece of paper, all of which shall be as nearly uniform in size and material as possible and placed in a receptacle so that the names cannot be seen. On the next working day following the close of the nomination period, all affected candidates shall be notified of the time and place of the drawing. The candidates shall be invited to attend or to send a representative. In the presence of witnesses, the state commissioner of elections or the county commissioner, as appropriate, or a designee of the state or county commissioner, shall publicly draw one of the names; and that person shall be declared to be the nominee of the nonparty political organization. The names of the other candidates shall appear on the ballot as candidates "nominated by petition." A copy of the written record of the result of the drawing shall be kept with the nomination petition of each affected candidate, and each candidate shall be sent a copy for the candidate's records not later than seven days after the close of the filing period.

**21.201(3) *Multiple nomination certificates.*** If more than one nomination certificate is received for the same office from groups with the same nonparty political organization name, the name of each of these candidates shall be written on a separate piece of paper, all of which shall be as nearly uniform in size and material as possible and placed in a receptacle so that the names cannot be seen. On the next working day following the close of the nomination period, all affected candidates shall be notified of the time and place of the drawing. The candidates shall be invited to attend or to send a representative. In the presence of witnesses, the state commissioner of elections or the county commissioner, as appropriate, or a designee of the state or county commissioner, shall publicly draw one of the names; and that person shall be declared to be the nominee of the nonparty political organization. The names of the other candidates, including any candidate who filed nomination petitions, shall appear on the ballot as candidates "nominated by petition." A copy of the written record of the result of the drawing shall be kept with the nomination certificate of each affected candidate, and each candidate shall be sent a copy for the candidate's records not later than seven days after the close of the filing period.

This rule is intended to implement Iowa Code section 44.17.

**721—21.202 to 21.299** Reserved.

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