

441—76.9(249A) Responsible persons and authorized representatives.

76.9(1) *Responsible person.* If an applicant or member is unable to act on the applicant's or member's own behalf because the applicant or member is a minor or is incompetent, incapacitated, or deceased, a responsible person may act for the applicant or member. Except as provided in paragraph 76.9(1) "a" below, the responsible person shall be a family member, friend or other person who has knowledge of the applicant's or member's financial affairs and circumstances and has a personal interest in the applicant's or member's welfare. The responsible person shall assume the applicant's or member's position and responsibilities during the application process or for ongoing eligibility. The responsible person may designate an authorized representative as provided for in subrule 76.9(2) to represent the applicant or member. However, the designation of an authorized representative does not relieve the responsible person from assuming the applicant's or member's position and responsibilities during the application process or for ongoing eligibility.

a. When there is no person as described above to act on behalf of the minor, incompetent, incapacitated, or deceased applicant or member, any individual or organization may be allowed to act as the responsible person if the individual or organization conducts a diligent search and completes Inability to Find a Responsible Person, Form 470-3356, attesting to the individual's or organization's inability to find a responsible person to act on behalf of the minor, incompetent, incapacitated, or deceased applicant or member.

b. The department may require verification of the applicant's or member's incompetence or death and of the responsible person's relationship to the applicant or member.

c. Copies of all departmental correspondence with the applicant or member shall be provided to the recognized responsible person.

76.9(2) *Authorized representative.* An individual or organization designated by a competent applicant or member, designated by a responsible person recognized pursuant to subrule 76.9(1), or with other legal authority to do so may act on behalf of the applicant or member in the application process, renewal of eligibility, or for ongoing eligibility.

a. The designation of an authorized representative by an applicant, member, or responsible person must be in writing and must be signed and dated by the applicant or member or the responsible person. The applicant, member, or responsible person may authorize the representative to complete and sign an application on the applicant's behalf, complete and submit a renewal form, receive copies of the applicant's or member's notices and other communications from the department, and act on behalf of the applicant or member in all other matters with the department.

b. Legal documentation of authority to act on behalf of the applicant or member under state law, such as a court order establishing legal guardianship or a power of attorney, shall serve in place of a written authorization by the applicant or member.

c. Designations of authorized representatives, legal documentation of authority to act on behalf of the applicant or member, and modifications or terminations of designations or legal authority may be submitted via the Internet website, www.dhsservices.iowa.gov, by mail, by email, by fax, or in person.

d. For purposes of this rule, the department shall accept electronic, including telephonically recorded, signatures and handwritten signatures transmitted by fax or other electronic transmission.

e. If the authorization indicates the time period or dates the authorization is to cover, the stated period or dates shall be honored and may include subsequent applications, if necessary, that relate to the time period or dates indicated on the authorization. If the authorization does not indicate the time period or dates it is to cover, the authorization shall be valid for any applications filed within 120 days from the date the authorization was signed and for all subsequent actions pertaining to the applications filed within the 120-day period.

f. The power to act as an authorized representative based on a designation by an applicant, member, or responsible person is valid until the applicant, member, or responsible person modifies the authorization or notifies the department that the representative is no longer authorized to act on behalf of the applicant or member or until the authorized representative informs the department that the representative no longer is acting in such capacity. Such notice must be in writing and should include the applicant's, member's, responsible person's, or authorized representative's signature as appropriate.

g. Copies of all departmental correspondence shall be provided to the applicant or member and the authorized representative.

76.9(3) *Additional requirements applicable to all authorized representatives and responsible persons.*

a. An authorized representative or responsible person must agree to maintain, or be legally bound to maintain, the confidentiality of any information regarding an applicant or member provided by the department.

b. A provider or staff member or volunteer of an organization serving as an authorized representative or responsible person must sign an agreement that the provider, staff member, or volunteer will adhere to the regulations in Part 431, Subpart F of 42 CFR Chapter IV and at 45 CFR 155.260(f) (relating to confidentiality of information), § 447.10 of 42 CFR Chapter IV (relating to the prohibition against reassignment of provider claims as appropriate for a health facility or an organization acting on the facility's behalf), as well as other relevant state and federal laws concerning conflicts of interest and confidentiality of information.

c. The authorized representative or responsible person is responsible for fulfilling all responsibilities encompassed within the scope of the authorized representation to the same extent as the individual the authorized representative or responsible person represents.

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