



IOWA GENERAL ASSEMBLY

Administrative Rules Review Committee

THE RULES DIGEST

February
2013

Scheduled for Committee review
Friday, February 8th 2013
Room #116

Reference
XXXV IAB No. 14(01/09/13)
XXXV IAB No. 15(01/23/13)

HIGHLIGHTS IN THIS ISSUE:

UNDERGROUND STORAGE, EPC 1
NATIONAL CRIME CHECKS , Department of Human Services 2

ENVIRONMENTAL PROTECTION COMMISSION

10:15

Underground storage tanks, leak detection, 01/09/13 IAB, ARC 0559C, EMERGENCY.

Leak detection in underground storage tanks has always been a major concern, especially when the facility has no on-site personnel. These systems must have either a leak detector capable of shutting off the submersible pump or a device that immediately alerts the operator when a leak is detected. The operator must be on site within two hours of notification. These emergency rules extend a current compliance extension from January 1, 2013 to January 1, 2014 if it can be shown that there is no reasonable alternative fueling source in the vicinity or fueling is needed to satisfy emergency or public safety considerations.

In 2010 the Committee objected to this provision; the committee questioned whether the EPC had statutory authority for the requirement. Iowa Code §455B.474A states, in part, “The rules adopted by the commission under section 455B.474 shall be consistent with and shall not exceed the requirements of federal regulations relating to the regulation of underground storage tanks ...” Since federal regulations do not have specific leak detection requirements for unstaffed fueling facilities, the Committee believes the plain language of §455B.474(10) precludes this rulemaking.

HUMAN SERVICES DEPARTMENT

9:05

Medicaid audits-provider appeal, 01/23/13 IAB, ARC 0569C, NOTICE.

Under the Medicaid program service providers are periodically audited by the department, which can demand the return of expenditures which were not adequately documented. Service providers may appeal those audits. This rule provides that on appeal any evidence or documentation that was not provided during the audit process cannot be later introduced into a contested case proceeding or other action. The purpose of the appeal is to verify whether the department correctly calculated any overpayment based on the information provided to the department during its audit or review.

HUMAN SERVICES DEPARTMENT

9:50

HCBS waiver services--billing codes, 01/23/13 IAB, ARC 0567C and 0568C, NOTICE.

The purpose of these rulemakings is to change billing codes in accordance with guidance from the Centers for Medicare and Medicaid Services (CMS) and the Health Insurance Portability and Accountability Act (HIPAA), which states that no state Medicaid department can use atypical billing codes. Most of the codes used to bill waiver services to the Iowa Medicaid Enterprise (IME) are atypical and therefore need to be changed to standardized health care procedure coding system (HCPCS) or current procedural terminology (CPT) codes. Those standardized codes have different unit descriptions than those currently contained in Chapter 78. For example, the atypical billing code unit definition is one hour; the new conversion code has a unit definition of 15 minutes. The rulemakings include other technical and conforming changes as well.

HUMAN SERVICES DEPARTMENT

9:50

National criminal history checks for registered child development homes, child care homes, and providers receiving child care assistance payments, 01/23/13 IAB, ARC 0566C, NOTICE.

These amendments implement legislation requiring the Department to conduct national criminal history record checks on all registered child development homes, child care homes, and providers receiving child care assistance payments, starting July 1, 2013. All persons subject to a record check in registered child development homes and child care homes and persons subject to a record check for the purpose of receiving child care assistance payments will be required to submit fingerprints for a national criminal history record check. All individuals subject to the record check will be responsible for

any costs associated with the “rolling” or preparation of the prints. The Department is responsible for the costs of the national criminal history record check.