



IOWA GENERAL ASSEMBLY

Administrative Rules Review Committee

THE RULES DIGEST

March 2013

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

Reference
XXXV IAB No. 16(02/06/13)
XXXV IAB No17(02/20/13)

HIGHLIGHTS IN THIS ISSUE:

MENTAL HEALTH AND DISABILITY SERVICES REDESIGN, DHS 1
COMPLIANCE AND ENFORCEMENT, EPC 2
VOTING, Secretary of State 3

HUMAN SERVICES DEPARTMENT

9:40

Mental health and disability services redesign transition fund, 02/20/12 IAB, ARC 0573C, ADOPTED.

These rules initially appeared as filed emergency rules in October 2012. This filing implements 2012 Iowa Acts, Senate File 2315, section 23, and 2012 Iowa Acts, Senate File 2336, sections 56 and 66; it is intended to provide for the gathering of information and to guide the development of recommendations to the Governor and Legislature regarding appropriations for transition funds to continue non-Medicaid-funded current core county mental health and disability services. The rules represent what the Mental Health and Disability Services (MHDS) Commission believes will demonstrate the county's need for financial assistance to enable the county to continue current core county mental health and disability services in state fiscal year 2013 and sustain such services in future state fiscal years. This rulemaking has also been published as a notice of intended action. The rules are divided into the following sections:

- 1. Definitions.
2. Eligibility requirements.
3. Establishment of application guidelines related to financial need, financial data, and sustainability plans.
4. Establishment of guidelines for the Department of Human Services for receiving, analyzing, and reporting of transition applications as relating to the transition funds.
5. Establishment of guidelines related to the allocation of transition funds.

A county is eligible for one-time transition funds in state fiscal year 2013, if funds are appropriated, if the county meets the following eligibility requirements. Each county shall:

1. Demonstrate that the county levy certified for its services fund is the maximum amount authorized by law.
2. Demonstrate that the county's projected expenditures for state fiscal year 2013, excluding increased costs for county administration and subsidies for county-operated programs, are in excess of the county's projected available funds for state fiscal year 2013.
3. Demonstrate that a reduction in the amount, scope, and duration of current core county mental health and disability services is necessary in the absence of transition funding.
4. Submit an application that meets the application requirements.

If the amount appropriated by the legislature for transition funds is insufficient to provide for the full cost recommended by the department, and the legislation does not state anything to the contrary, the department shall distribute funds based on the following priorities:

1. Individuals in the target population whose income is equal to or less than 150 percent of the federal poverty level.
2. Individuals in the target population whose income is greater than 150 percent.
3. Individuals with a disability other than the target population whose income is equal to or less than 150 percent.
4. Individuals with a disability other than the target population whose income is greater than 150 percent.

ENVIRONMENTAL PROTECTION COMMISSION

10:20

Compliance and enforcement procedures, 02/06/133 IAB, ARC 0594C, ADOPTED.

This filing sets out a variety of compliance and enforcement options the EPC may consider in responding to possible violations of environmental statutes, rules, permits, licenses, certifications, and plans. It was originally placed under notice in March 1012 and has gone through extensive public comment.

These rules detail the steps the Department may take short of formal administrative proceedings; they codify existing practices. Options include:

- An informal meeting to discuss corrective actions.

- A letter of inquiry (LOI) The LOI allows the regulated entity an opportunity to provide information that would be helpful for a determination of whether a violation has occurred.
- A letter of noncompliance (LNC). If a violation has taken place, the department may issue a letter of noncompliance (LNC). This letter is used to address less significant violations where no environmental harm or threat to human health or safety has occurred or is imminent, the regulated entity is not a repeat offender, the corrective action is not deemed an emergency, or the violation is considered insignificant.
- A notice of violation (NOV) will most often be used when environmental harm or a threat to human health or safety has occurred or is imminent, the regulated entity is a repeat offender, the corrective action is deemed an emergency, or the violation is considered significant.

A number of public comments express concern that these steps could be used to dilute or weaken enforcement actions. In response the Department noted that the informal actions are discretionary with the Department, which may instead choose to commence an administrative action or refer the matter to the Attorney General. In the rulemaking the Department stated that it was “committed to further improving its implementation procedures to ensure a clear and appropriate compliance and enforcement response to environmental violations.”

SECRETARY OF STATE

10:40

Ineligible voters, 02/20/03 IAB, ARC 0616C, ADOPTED.

Were initially published on an emergency basis in August; they were placed under notice at the same time. That filing set out a new program allowing lists of foreign nationals who are residing in Iowa to be matched against the voter registration records, using a federal immigration database to verify citizenship status. The program also contained a procedure for persons wishing to file a complaint concerning an alleged voting violation. The filing generated a large amount of public comment and was the subject of a judicial challenge by the ACLU.

This filing eliminates the complaint process, noting that a formalized complaint procedure is set out in §§48A.14-.16. The rule revises the process for the identification of

non-citizen voters. The Secretary will determine whether an individual has obtained citizenship after the date of the material initially reviewed. Only at that point will the individual be contacted. If the individual informs the Secretary that more time is needed to provide the needed information, the Secretary will take no further action for 60 days. If the individual does not respond within 30 days, the Secretary will send a second notice. After 30 additional days, the Secretary will notify the local registrar.