



Administrative Rules Review Committee

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THE RULES DIGEST

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Senate Room #22

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XXVII IAB No. 08(10/13/04)
XXVII IAB No. 09(10/27/04)

HIGHLIGHTS IN THIS ISSUE:

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INSURANCE DIVISION

9:45

Medicare supplements: drug benefit, IAB Vol. XXVII, No. 09, ARC 3753B, NOTICE.

The division proposes a series of amendments to rules which regulate the form and substance of Medicare supplemental insurance policies. These changes implement the federal Medicare Prescription Drug, Improvement, and Modernization Act of 2003. These proposals are based on a National Association of Insurance Commissioners (NAIC) model regulation.

A new Medicare supplement policy with benefits for outpatient prescription drugs cannot be issued, beginning in 2006. An existing policies can be renewed after the policyholder enrolls in drug benefit set out in Medicare Part D, as long as the renewal premiums are reduced to reflect the part D coverage. Under the federal Act beneficiaries who elect the new drug benefit will pay a monthly premium, estimated to be \$35 per month in 2006. Beneficiaries will be responsible for the first \$250 in drug expenses, and then will pay, on average, a 25 percent coinsurance until they reach the benefit limit (\$2,250 in 2006). Once they reach the benefit limit, they will face a gap in coverage in which they will pay 100 percent of their drug costs up to

\$5,100 in total drug spending (equal to \$3,600 in out-of-pocket spending). Medicare will then pay 95 percent of drug costs above that amount.

IOWA FINANCE AUTHORITY

10:00

Multifamily housing program, IAB Vol. XXVII, No. 08, ARC 3757B, ADOPTED.

The Multifamily Preservation Loan Program is expanded under this filing from a loan preservation program to a program for both preservation of existing units and construction of new affordable developments. The program provides three types of loans. The first continues the existing program--- providing loans to preserve existing housing. Eligible projects must have at least five units; they must affordable to tenants with incomes at or below 50 to 80 percent of area median income (AMI). The maximum loan amount is \$2 million.

The multifamily loan program for low-income housing tax credits provides loans for projects that have been allocated tax credits and have not yet started construction or have not obtained permanent financing. These projects must include either 20 percent of the units at or below 50 percent of AMI or 40 percent of the units at or below 60 percent of AMI.

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The program for substantial rehabilitation of non-restricted projects provides loans for projects that have no affordability restrictions, but at least 40 percent of the units will have rents at or below the area fair market rents. Projects must have at least five units.

This filing also creates a gap financing fund, offering low-cost gap loans where traditional financing arrangements are not readily available. Gap financing can be used for a variety of construction and rehabilitation purposes. It cannot exceed 25% of the total mortgage, with a maximum term of 30 years.

IOWA FINANCE AUTHORITY

10:00

State housing trust, IAB Vol. XXVII, No. 08, ARC 3758B, ADOPTED.

Code §16.181 creates a “housing trust fund” within the Iowa Finance Authority (IFA), for the development and preservation of affordable housing for low-income people. For 2005 IFA proposes minor changes in the program.

Money in the fund does not revert to the general fund. The fund consists of two programs: the local housing trust fund and the project based program. For each program applications are evaluated based on a series of weighted criteria, set out in the program. Both programs include a requirement for a local match, but that is not limited to cash. A local match is broadly interpreted and can include such things as land, buildings, infrastructure, cash, tax increment financing proceeds, tax abatement, Brownfield remediation, private contributions, loans at substantially below market interest rates or with other favorable features.

60% of the fund is to be allocated to the local housing trust. A local fund must have a local governing board responsible for coordinating local housing programs as recognized by the city, county, council of government or regional officials. No single award can exceed 10% of the balance of the fund, plus 10% of any deposits. In geographic areas of 50,000 or more population, awards may be up to \$200,000; for smaller areas the awards are limited to \$100,000. 30% of the moneys must serve extremely low-income people (30% of the *greater* of the county or the statewide metro or

non-metro median income). This requirement can be met through assistance to homeless or domestic violence shelters, transitional housing projects, housing for persons with disabilities, etc. A 25% local match is required, a higher match will increase the applicants score.

40% of the fund is allocated to project based programs. The maximum application amount is \$90,000. The programs must be sponsored by local governments on non-profit organizations for the purpose of developing and preserving single and multi-family housing for low-income persons (80% of the median income). Owner-occupied rehabilitation is not eligible under this program. A 10% local match is required, a higher match increases the applicants score.

ATTORNEY GENERAL

10:30

Victim Assistance, IAB Vol. XXVII, No. 08, ARC 3725B, NOTICE.

The Attorney General has the responsibility of administering a variety of victim assistance programs created by state and federal law; these include:

- grants received under the federal Victims of Crime Act and the Children's Justice and Assistance Act;
- the state crime victim compensation program ;
- the domestic abuse program;
- the family violence prevention and services program;.
- payment for sexual abuse medical examinations;
- the violence against women program.

The Attorney General now proposes to update the victim assistance grant program; the proposal is substantially similar to the rules currently in place.

There are two types of grant programs. A competitive grant utilizes a request for proposal (RFP) with review of the applications by a grant review committee which recommends grant awards to the crime victim assistance board. A focus grant is a one-time grant for such things as training, travel, or materials; focus grants awarded at the discretion of the division directly to a program that has received a competitive grant. A focus grant is limited to 3% from each funding source.

Funds must be used only for victim services or functions related to victim services. Victim services must be provided without regard to ability to pay. The grant applicant must be either a public

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or private nonprofit entity, providing services to crime victims or training and technical assistance to victim service providers and allied professionals.

DEPARTMENT OF ECONOMIC DEVELOPMENT

10:40

American Dream Down Payment Initiative, IAB Vol. XXVII, No. 08, ARC 3730B, NOTICE.

As part of the Home program, the department proposes a new component: The American Dream Down Payment Initiative (ADDI). This federal Housing and Urban Development program was created in 2003, providing over \$160 million in grants; it will provide down payment and closing cost assistance, for first time home buyers, towards the purchase of a family home. Program applicants must be either units of local government or non-profit organizations. Applicant funding is limited to \$2000,000; individual assistance can range from \$1,000 to \$10,000. Eligible recipients must have annual incomes that do not exceed 80 percent of the area median income.

COLLEGE STUDENT AID COMMISSION

11:00

Advisory committee on post secondary registration, IAB Vol. XXVII, No. 08, ARC 3739B, NOTICE.

Over the last 20 years some out-of-state colleges and universities have established satellite campus facilities in Iowa communities. Code Chapter 261B requires that post-secondary schools be registered with the Secretary of State, following approval for operation by the College Student Aid Commission. The statute provides no further details on this approval process. The commission proposes to amend its' existing rules by detailing the role of the state advisory committee for postsecondary school registration, and adding new criteria for the approval process.

The role of the committee, as set out in §261B.10 is to advise the Secretary Of State and "other agencies" concerning the implementation of Chapter 261B and to *"serve as a resource and advisory board to the secretary as needed."* The secretary serves as chairperson of the committee. The committee is made up of a representative from:

- The State Board of Regents.
- The Department of Education.
- The office of the Secretary of State.

- The Attorney General.
- A community college .
- An accredited private postsecondary institution.

Under this proposal the advisory committee will examine out-of-state college and university applications and make recommendations to the commission.

The rules add six additional criteria to evaluate these applications. The new criteria attempt to measure the quality and viability of the proposed program. For example, the program must have adequate physical facilities, including library and other support, necessary for the program. The curriculum must be developed and evaluated by faculty within that discipline. The program must also show financial viability, including the provision of alternatives for students to complete their programs if the applicant school closes the program before students have completed their courses of study.

COLLEGE STUDENT AID COMMISSION

11:00

Tuition grant program, IAB Vol. XXVII, No. 08, ARC 3738B, ADOPTED.

Iowa Code §261.9 establishes the tuition grant program for the benefit of Iowa residents attending an accredited Iowa private college or university; applicants must demonstrate financial need. Grants may be provide up to \$4,000 per year for up to eight semesters of undergraduate study (sixteen semesters for a part-time student). An accredited institution was, under prior law, defined as a private college or university, located in Iowa which must be accredited or eligible for accreditation by the appropriate national accreditation body for that type of institution.

This program has been revised by the enactment of Senate File 2298; §238 of the Act places two additional restrictions on an accredited institution wishing to participate in the grant program. These changes are now set out in the filing. First, the institution must be accredited by the North Central Association of Colleges and Schools (NCA); the current rule allowed an institution to be a candidate for accreditation. Second, the institution must be tax exempt under the federal Internal Revenue Code. Those for-profit institutions that are

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currently accredited are "grandfathered" in. Lastly, the institution must provide matching institutional funds for the tuition grant.

COLLEGE STUDENT AID COMMISSION

11:00

Loan default debt collection, IAB Vol. XXVII, No. 08, ARC 3737B, ADOPTED.

A number of years ago the state obtained authority to revoke the professional licenses of persons who had defaulted on student loans. That process is now supplemented by an additional tool—garnishment of wages. House File 2559 specifically calls for a garnishment proceeding when a defaulter who is financially capable of paying fails to voluntarily enter into a reasonable payment agreement.

The rules establish an *administrative* garnishment procedure allowing the commission, following 30 days notice and a due process hearing before an administrative law judge, to issue a garnishment order to the debtors employer.

Normally in Iowa garnishment is a judicial proceeding regulated by Iowa Code Chapter 642. House File 2559 authorize the state use of federal procedures set out in 20 USC §1095A; that federal law states in part:

"Notwithstanding any provision of State law, a *guaranty agency*...may garnish the disposable pay of an individual to collect the amount owed by the individual, if he or she is not currently making required repayment under a repayment agreement..." [emphasis added]

Under the federal mandate garnishment is limited to 10% of the debtors disposable income (income minus required deductions). Employers are prohibited from discharging an employee based on the garnishment.

ENVIRONMENTAL PROTECTION COMMISSION

11:50

Concentrated animal feeding operations: discharge permits, IAB Vol. XXVII, No. 08, ARC 3736B, NOTICE.

Under federal law concentrated animal feeding operations (CAFO) are considered a point source for pollution, and must obtain a National Pollutant Discharge Elimination System (NPDES) permit.

Under prior federal regulation confinement feeding operations (CFO), which are completely

enclosed, were not regulated under the NPDES program, because discharges were not allowed. Under new federal regulations, some 1800 larger CFOs' will be required to obtain the NPDES permit. However, an exemption is available if the operation has "no potential to discharge" manure or process wastewater from both the production area and any land waste application areas.

In some cases, the proposed rules do not implement the new federal regulations due to conflict with current state statute. New federal regulations eliminate the concept of "animal units", where each species is assigned a numerical value based on size in order to determine when the threshold for regulation is met. The federal regulations will now calculate the threshold value for each species individually, instead of combining the values into a generic "animal unit" threshold. The EPC will not follow this federal revision and will instead retain the current "animal unit" calculation, with the added requirement that when separate species are combined, each species must be kept in the same type of facility. The federal regulations also require Nutrient Management Plans for large CAFOs, which are more extensive than the Manure Management Plan required by Iowa statute and inclusive of additional smaller operations. These rules will not alter the requirements for Manure Management Plans, but will include the additional requirements for large CAFOs in the NPDES permits.

ENVIRONMENTAL PROTECTION COMMISSION

11:50

Animal feeding operations, IAB Vol. XXVII, No. 08, ARC 3735B, NOTICE.

The EPC proposes a variety of amendments to its' program relating to the permitting requirements for storage structures operated in conjunction with an animal feeding operation. Under these revisions the construction permit requirements are expanded to cover unformed egg-washing water storage structures, or expansion of any existing unformed structure. For formed storage structures, the threshold permitting requirements are now expressed in terms of "animal units" instead of specific weight levels for each species. Permits will be required for changes that increase the volume of

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an unformed structure, or increase the volume of a formed structure, by 1,000 or more animal units.

The proposal also expands the requirements for test wells. Three temporary monitoring wells, or test pits in some circumstances, are required for both formed or unformed structures. These are required to determine the groundwater level.

DEPARTMENT OF EDUCATION

12:20

School transportation, IAB Vol. XXVII, No. 08, ARC 3711B, NOTICE.

The department proposes a series of amendments relating to school busses and bus drivers. There are several significant revisions in this filing. One change relates to the requirements for the bus driver, and the definition of the bus itself. §§321.375 and .376, 2004 supplement, establish the qualifications for school bus drivers. Under these provisions drivers must hold a driver's license which is valid for the operation of the school bus and a certificate of qualification for operation of a commercial motor vehicle issued by a medical professional, as outlined in the Code. The Code definition of "school bus" excludes nine-passenger or smaller vehicles used *only* to transport students to activities in which the students are participants or used to transport students to their homes in case of illness or other emergency.

Item four of the proposed rules expands the use of private vehicles; under the current rule *any* vehicle used to transport students is defined as a school bus except for those vehicles used by individuals to transport their *own* children. This exemption is expanded to also include other children, as long as the transportation is provided on a not-for-hire basis. Persons who transport students under other circumstances must pass a commercial drivers' license type physical examination. This requirement for school bus drivers, imposed by § 321.375, is greater than the requirements imposed on some other commercial drivers. For example, a class "D" chauffeurs license, issued by the DOT, authorizes the driver to transport a total of sixteen people; this license does not require a commercial drivers license physical.

A second revision will require that both public and private schools must have a contract with persons who are hired to provide transportation

services. The current rule imposes this requirement only on public schools. The contracting requirement is found in §285.5, which requires:

5. The director of the department of education shall prepare a uniform contract containing provisions not in conflict with this chapter which shall be used by all schools in contracting for transportation service.

* * *

9. All bus drivers for school-owned equipment shall be under contract with the board. The director of the department of education shall prepare a uniform contract containing provision not in conflict with this chapter which shall be used by all school boards in contracting with drivers of school-owned vehicles. [emphasis added]

A third revision involves the fee imposed for school bus inspection, imposed for every bus inspected by the department. The fee is currently \$15; the proposal would raise the fee in steps: \$20 effective 2005; \$25 effective 2007; and \$28 effective 2009.

ENGINEERING BOARD

No Rep.

Services provided by a professional engineer, IAB Vol. XXVII, No. 08, ARC 3727B, ADOPTED.

The board adopts a new rule outlining the circumstances where the use of a professional engineer is required in building construction and the alteration of existing structures. The rules set out guidelines for the type of work requiring a professional engineer and guidelines to determine when an unlicensed individual is engaged in the practice of engineering. The policy is set out in chart form. The first column defines the type of use for the structure, the second establishing the size of the structure and the third indicating whether the services of a professional engineer is required. Basically, agricultural structures, commercial structures under 10,000 square feet, churches smaller than 2000 square feet and residential uses of 12 units or less (up to three stories) do not need the services of a professional engineer.