



## Administrative Rules Review Committee

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# THE RULES DIGEST

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July  
2014**Scheduled for Committee review**  
**Tuesday, July 08, 2014**  
**Senate Committee Room #22**Reference  
XXXVI IAB No. 25 (06/11/14)  
XXXVI IAB No. 26(06/25/14)

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**HUMAN SERVICES DEPARTMENT**

9:10

CDAC, 06/25/14 IAB, ARC 1510C, NOTICE.

Administrative rules that went into effect January 1, 2014, prohibit legal representatives from being a paid provider of Medicaid funded services. 2014 Iowa Acts, Senate File 2320, section 1, directed the Department to adopt rules allowing legal representatives to be paid providers when providing services to members receiving individual consumer directed attendant care (CDAC) services or as an employee in the Consumer Choices Option (CCO) program. These amendments will allow a legal representative to be a paid provider of service when providing individual CDAC or CCO services to a member they legally represent. These amendments also set service delivery parameters for the legal representative when they are a paid provider, as required by Senate File 2320.

The Committee informally reviewed this proposal at its June meeting prior to its filing as a notice of intended action. Stakeholder comment was heard expressing concern about the implications of replacing “consumer-directed attendant care services” with “personal care services,” as provided in Senate File 2320. A department representative stated that the department would work with stakeholders in implementing this change to minimize any negative effects.

## **ECONOMIC DEVELOPMENT AUTHORITY**

9:50

*Iowa Tourism Grant Program, 06/11/14 IAB, ARC 1493C, EMERGENCY AFTER NOTICE*

The Iowa Tourism Grant Program is intended to fund tourism-related marketing initiatives and meetings, events, and professional development efforts. The minimum grant is \$500 and the maximum grant is \$5000. Applicants must provide a 25% cash match.

Only expenditures directly related to the implementation of a tourism-related marketing project or a meeting, an event or a professional development project will be reimbursed under the program. Ineligible expenses include: solicitation efforts; lobbying fees; items purchased for resale; prizes given to participants or attendees; alcoholic beverages; internships; all travel, meal and lodging costs; and projects already receiving DEA funding or other support.

The DEA has established a point system to evaluate applications; these applications will be reviewed by a review committee consisting of members of the Iowa tourism industry.

## **PUBLIC EMPLOYMENT RELATIONS BOARD**

9:55

*Electronic document management system, 06/25/14 IAB, ARC 1509C, NOTICE.*

This proposal implements 2014 Iowa Acts, House File 2172, which provides for the use of an electronic filing and notice system by the Board. The Act directs that the Board, by rule, establish an electronic filing system for the filing or service of any notice or other document required or permitted to be filed with or served on or by the Board and specifically authorizes the Board to require the filing or service of documents through the system. This proposal contains rules that govern the use of the new system and are modeled in substantial part on the Iowa Court Rules pertaining to the use of the judicial branch electronic document management system. The proposal includes definitions, the registration process for the system, standards for mandatory electric filing and exceptions thereto, standards for service of documents, and other matters.

## **STATE PUBLIC DEFENDER**

10:40

*Claims for services, 06/25/14 IAB, ARC 1512C, ADOPTED.*

This filing adds significant detail to existing rules, and provides a number of safeguards to prevent improper billing. They set a maximum number of aggregate hours that an attorney can bill in a day, require detailed itemized time and expense reimbursement records, establish additional documentation requirements for claims of

attorneys whose contracts were canceled for improper billing practices, and clarify the prohibition on other improper practices.

The filing clearly states that claims shall only be paid for services and expenses incurred within the scope of the court appointment, and only after the service is rendered; other fees or expenses claimed will be denied. All billed time must be the actual time worked providing services to the client; estimated billing is prohibited. Billable time is limited to 12 hours a day, except for a trial or hearing, where the maximum is 16 hours.

Under the existing rules, claims that are “not reasonable or not appropriate” will be denied. Under the proposal, such claims will be “reduced by the state public defender to an amount which is not excessive.”

Non-billable services include: clerical work, including photocopying; work performed to withdraw from a case; general overhead; and preparation document or petitions related to the attorney fee claim. Travel time and mileage costs directly related to representing the client are an allowable expense.

In response to public comment, provisions relating to when activities must be separately itemized or aggregated and when substitute counsel is allowed for court proceedings have been modified.

## **STATE PUBLIC DEFENDER**

10:40

*Attorney qualifications; contracts, 06/25/14 IAB, ARC 1514C, ADOPTED.*

These amendments establish minimum qualification requirements for attorneys contracting with the State Public Defender to provide legal services to indigent persons. The amendments also update provisions regarding the termination of contracts to permit termination on less than 30 days’ notice with the mutual consent of the parties and to authorize a review procedure for terminations on the basis of improper billing practices.

There are a variety of indigent defense contracts available, with different qualifications for each type of defense. Participating attorneys are independent contractors, not state employees. Six types of contracts are available: juvenile cases; appellate cases; postconviction relief cases; class A and B felony cases; class C and D felony cases; and misdemeanor and other cases. Each of these categories requires relevant training and experience, as set out in the rules.

In response to public comment, the requirement of jury trial experience has been removed for postconviction relief cases, and also for Class A and B felony cases for an attorney who has previously tried a Class A or B felony case. The reference requirements for felony cases have also been modified.

## **EDUCATION DEPARTMENT**

10:55

*Supplementary weighting*, 06/11/14 IAB, ARC 1486C, EMERGENCY.

This rulemaking implements 2014 Iowa Acts, HF 2271 and SF 2056, which made significant changes to the state operational sharing law. In operational sharing, districts share personnel in listed positions under the law and receive additional state payment for doing so. The Committee imposed a session delay on a prior rulemaking on this subject implementing 2013 Iowa Acts, HF 472, when questions arose as to whether that rulemaking was in keeping with legislative intent. That delay expired with the adjournment of the 2014 General Assembly. The 2014 enactments, pursued in consultation with affected stakeholders, sought to resolve the dispute from the previous year.

## **RACING AND GAMING COMMISSION**

10:30

*Organization and operation*, 06/25/14 IAB, ARC 1506C, ADOPTED.

The Commission adopts a variety of amendments relating to its organization and operation, including increasing the term limit for the chairperson of the Commission from two to four years, and changes to fees, application forms, and certification for first-aid personnel.

At the Committee's April meeting, Committee members questioned the need to increase the chairperson's term. A Commission representative explained that this change was intended to provide consistency for the Commission in light of unique circumstances the Commission currently faces, including ongoing litigation.

## **INSPECTIONS AND APPEALS DEPARTMENT**

10:40

*Respite care services*, 06/25/14 IAB, ARC 1511C, NOTICE.

These new proposed rules set out a regulatory program for respite care services provided by assisted living programs. "Respite care services" are temporary supportive care services provided for 24 hours or more to relieve the usual caregiver of the person from providing continual care to the person. An assisted living program providing

respite care services must meet these requirements related to respite services and must be certified as unassisted living program.

Respite care can be provided for no more than 30 consecutive days and for a total of no more than 60 days in a year. Prior to care, the person must be evaluated based on: safety and supervision needs; medical needs; dietary needs; bowel and bladder function.

## **INSPECTIONS AND APPEALS DEPARTMENT**

10:40

*Memory care, 06/11/14 IAB, ARC 1476C, ADOPTED*

The Department adopts a new program allowing a memory care unit in residential care facilities, providing care for persons suffering from early Alzheimer's-type dementia or other disorders. A residential care facility provides room and board, , personal assistance, and other essential daily living activities; it does not provide nursing services. A staff members must be on duty in the unit at all times.

## **ADMINISTRATIVE SERVICES DEPARTMENT**

10:50

*General Updates, 06/11/14 IAB, ARC 1503C, NOTICE*

The Department proposes a variety of amendments to existing personnel policies. The amendments update statutory citations, make editorial corrections, and simplify and clean up existing provisions. The proposals simplify provisions relating to the confidentiality of personally identifiable information by simply stating that employee employment, performance and discipline records are confidential in accordance with Iowa Code §22.7(11) and any other applicable law.

The proposal does set out an opportunity for noncompetitive appointments for disabled veterans. A disabled veteran who satisfactorily completes a federally funded job training program approved by the federal Department of Veterans Affairs in a state agency may be appointed noncompetitively into a vacant position in the state. job classification in which the veteran has been trained.