

**MINUTES OF THE OCTOBER 2006 MEETING
OF THE
ADMINISTRATIVE RULES REVIEW COMMITTEE**

Date of meeting: The regular, statutory meeting of the Administrative Rules Review Committee (ARRC) was held Tuesday, October 10, 2006, in Room 22, State Capitol, Des Moines, Iowa.

Members present: Representative George Eichhorn, Chair, and Senator John P. Kibbie, Vice Chair; Senators Michael Connolly, Thomas Courtney, and James Seymour; Representatives Danny Carroll, Marcella Frevert, David Heaton, and Geri Huser. Senator Paul McKinley was excused.

Also present: Joseph A. Royce and Emily Gardyas, Legal Counsel; Kathleen K. West, Administrative Code Editor; Sonya Streit, Administrative Rules Coordinator; fiscal staff, caucus staff and other interested parties.

Convened Vice Chair Kibbie convened the meeting at 9:12 a.m.

Fiscal report Mary Beth Mellick presented the LSA report on rule makings that may have a significant fiscal impact.

VETERANS AFFAIRS DEPARTMENT Patrick Palmersheim represented the department.

ARC 5179B The injured veterans grant program, ch 11, has been adopted; to date \$497,500 has been distributed to 70 veterans. Mr. Palmersheim reported that, upon evacuation, an injured veteran is initially eligible for \$2500; that additional increments of \$2,500 are available after 30 days and 60 days; and that after 90 days the injured veteran is eligible for \$10,000. Mr. Palmersheim commented that verification of injuries is more time-consuming than was expected because the state does not have access to records of the Department of Defense and the U.S. Department of Veterans Affairs.

Motion to refer Rep. Huser moved a referral to the general assembly to explore ways to expedite and simplify verification.

Motion carried The motion to refer carried.

Motion Sen. Courtney made a motion for the committee to send a letter to Iowa's delegation of five representatives and two senators in Washington to inform them about this program and to seek their help in expediting the process by encouraging cooperation and communication between the Department of Defense and the U.S. Department of Veterans Affairs and the Iowa department of veterans affairs.

Motion carried The motion carried.

HUMAN SERVICES DEPARTMENT Nancy Freudenberg, Mary Nelson and Jennifer Vermeer represented the department. Other interested parties included Representative Mark Smith, who is also an LISW; Joan Discher of Magellan Health; Shelly Chandler of the Iowa Association of Community Providers; Linda Hinton of the Iowa State Association of Counties; Cheryl Jones of the Iowa Association of Nurse Practitioners; Kim Schmett of the Coalition for Family and Children Services; Gloria Gray of Children and Families of Iowa; Ron Stehl of Youth Homes of Mid-America; Jennifer Harbison of the Iowa Academy of Family Physicians; and Shannon Strickler of the Iowa Hospital Association.

ARC 5392B No questions on proposed amendments to ch 176 regarding dependent adult abuse reports.

Special review ARC 5368B and ARC 5372B were reviewed jointly. Ms. Freudenberg reported on progress that has been made since last month's review and outlined several changes to the remedial services rules. A transition period will allow continuation of benefits until June 30, 2007, for persons authorized to receive RTS and ARO services as of December 31, 2006. Beginning January 1, 2007, new referrals will be covered under remedial services. Reports will be sent to IME rather than to the LPHA, and reassessment periods have been extended to six months. Ms. Freudenberg explained child welfare provisions, distributed a timeline for implementation, and reported that IME held nine trainings and Magellan provided training at eight locations via the ICN. Rep. Smith supported the extension of time for implementation and the trainings that have been held but expressed some concern that services may remain fragmented. Rep. Heaton inquired about the November 1, 2006, implementation for group care. Ms. Nelson emphasized that LPHA assessments for those in group care are a priority and confirmed that the department will continue to pay the provider in the event that an assessment cannot be completed by November 1. Rep. Frevert inquired about costs to counties. Ms. Vermeer clarified that counties are responsible for the nonfederal share of Medicaid-covered services and, under the new plan, services previously covered under ARO or RTS are expected to be covered as remedial services or habilitation services under the state plan amendment. Discussion related to whether services needed by persons with chronic mental illness will be covered. Ms. Nelson responded that while RTS services were limited to children in the child welfare system or juvenile justice system, Medicaid-eligible children who can benefit from remedial services will be able to access the services. In response to Rep.

Human Services Department (continued)

Carroll's question about the likelihood of CMS approval, Ms. Vermeer stated that the department has been in communication with the regional and central offices of CMS regarding the population to be served and the types of services to be provided and that indications are encouraging. Members commented on the need for a quality program to provide mental health services.

Ms. Discher reported that licensed practitioner of the healing arts (LPHA) has been defined by federal rules since 1995 and that the Magellan network includes psychiatrists, psychologists, ARNPs with psychiatric certifications, licensed independent social workers (LISWs), licensed mental health counselors (LMHCs), and licensed marital and family therapists (LMFTs). The Magellan network has more than 900 individual practitioners and 190 group practices. In addition, the network is open to remedial providers with LPHAs on staff, and there is an option for an exception to policy. Ms. Discher commented that providers are already completing assessments to ensure that services continue.

Ms. Chandler expressed appreciation to the committee for facilitating public input, to the department for its responsiveness, and to Magellan for providing training; and she highlighted the need for services to persons with chronic mental illness. Ms. Hinton commented that state payment cases present additional budgetary concerns to counties. Ms. Jones commended Magellan's record in providing mental health services to children, but expressed concern that children under the age of five may not have access to services. Mr. Schmett commended the work of the department and expressed confidence that the result will be an improved child welfare system. Ms. Gray voiced concern that IME may not be able process all assessments in the promised two-day turnaround and concern about the sufficiency of LPHAs, the reduction in rates, and the lack of consistency among trainers. Mr. Stehl expressed concern about the effect of the reduction in group care rates, the rapidity of implementation, and the need for additional training. Ms. Harbison asked that LPHAs be required to demonstrate competency and experience in caring for children and that primary care practitioners be included. Ms. Strickler commented that questions remain about who will be included as an LPHA.

Mr. Royce noted that these amendments will be presented to the council for adoption with a November 1 effective date. Rep. Eichhorn requested a monthly report from the department to keep the committee advised about problems.

Motion to refer Concerned about potential additional costs to counties, Rep. Huser moved a referral to the general assembly.

Motion carried The motion carried.

UTILITIES DIVISION Gary Stump, Cecil Wright, and Joan Conrad represented the division. Other interested parties included Paul Neppel and Mark Neppel of Spirit Lake, Iowa.

ARC 5380B The amendment to ch 7 allows for delegation of authority to issue procedural orders. Members expressed concern that the standard is too broad, that it would vest too much authority in a single board member, and that such a change should be made statutorily rather than by rule.

Motion to delay Rep. Carroll moved a 70-day delay.

Motion carried The October 18, 2006, effective date of 7.1(8) was delayed for 70 days.

ARC 5400B Proposed amendments to ch 15 in regard to wind and renewable energy tax credits are intended to implement statutory changes. Mr. Neppel stated that he is in the process of implementing a 476C wind project that involves 10 LLCs, each with one generator, but he has not received final approval in the form of a declaratory order from the board. Ms. Conrad explained that the statute specifies who may be an "owner" and that the owner must own 51 percent of the project, but the state and federal interpretations differ in regard to "owner" and "financier." A statutory change could clarify legislative intent regarding issuance of tax credits for financed wind projects.

ARC 5382B No action on proposed gas and electric line extension rules.

Committee business The minutes of the September meeting were approved.

The next meetings were tentatively scheduled for November 13 and 14, and December 12 and 13, 2006.

The objection imposed at the August meeting was approved and filed.

ENVIRONMENTAL PROTECTION COMMISSION Christine Paulson, Brent Parker, and Theresa Stiner represented the commission.

ARC 5388B No questions on amendments to chs 20 and 22 and the adoption of a new ch 33 concerning air quality.

ARC 5389B No action on rules pertaining to commercial septic tank cleaners. Discussion related to land-spreading on sites owned by haulers and the possibility for disposal of septage at municipal waste treatment facilities. Mr. Parker indicated that some waste treatment facilities do not have the capacity to handle the septic tank waste, but that some facilities do accept the waste for a fee.

Environmental Protection Commission (continued)

ARC 5387B No action on proposed ch 118, discarded appliance demanufacturing.

ARC 5386B No action on proposed ch 215, mercury-added switch recovery from end-of-life vehicles.

NATURAL RESOURCE COMMISSION Dale Garner, Diane Ford-Shivvers, and Martin Konrad represented the commission.

ARC 5144B Special review of the river otter trapping season was requested. Dr. Garner reported that river otters are under federal jurisdiction and that the U.S. Fish and Wildlife Service approved the trapping season. There was discussion about the effect of river otters on fish populations and the right of landowners to defend their property.

IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM Donna Mueller and Kelly Lovell represented IPERS.

ARC 5401B No action on proposed amendments to implement the contribution rate increase and anti-spiking provisions. Rep. Huser asked Mr. Lovell to follow up on situations in which there is a change in benefits when sheriff deputies are moved to the county attorney's office.

IOWA FINANCE AUTHORITY Mark Thompson, Lori Beary and Carla Pope represented IFA. Chuck Corell represented the department of natural resources. Other interested parties included Emily Piper of the Iowa Rural Water Association and David Adelman of the League of Cities.

ARC 5381B No action on the 2007 qualified allocation plan for the low-income housing tax credit program. Ms. Pope noted that a change from the notice pertains to a tax credit cap for a single developer consultant. Ms. Pope stated that 70 percent of the tax credits are set aside for specific categories such as not-for-profit organizations, service-enriched housing for persons with disabilities, affordable assisted living, historical preservation, and rural projects.

ARC 5376B No questions on the compliance manual for the low-income housing tax credit program.

ARC 5346B The committee requested a special review of the wastewater treatment financial assistance program, ch 28. Mr. Corell reported that after field work has been completed, recommendations for changes in stream designations will be made to the environmental protection commission and posted for comment. As part of the rule-making procedure, public comment will be considered and the EPA will have to approve the designation. If EPA approves a designation, upgrades may be required at the time the discharge permit is renewed. If an upgrade is required, the department will meet with the city prior to drafting the permit to determine how much time will be needed to complete the upgrade. Ms. Beary added that the grants will be available to disadvantaged communities only for the improvements needed to meet the new standards; in the case of communities that were not in compliance with the former standards, the grants may not cover the cost of the entire upgrade.

Mr. Adelman commented that state agencies should not be included in the definition of communities, that certification for project eligibility should be more specific, that guidelines are needed regarding documentation of eligible costs, and that access to sites should be restricted. Ms. Piper noted that some communities that are at capacity and need to expand may want to address the higher standards even before the stream designation is changed.

Adjourned The meeting was adjourned at 2:45 p.m.

Respectfully submitted,

Kathleen K. West

APPROVED:

Chair George Eichhorn

Vice Chair John P. Kibbie