



Fiscal Services Division

ADMINISTRATIVE RULES – FISCAL IMPACT SUMMARIES

February 7, 2014

Iowa Code section 17A.4(4) requires the Legislative Services Agency (LSA) to analyze the fiscal impact of all administrative rules with an impact of \$100,000 or more and provide a summary of the impact to the Administrative Rules Review Committee (ARRC). Fiscal Impact Statements filed by State agencies can be found on our website at http://staffweb.legis.state.ia.us/lfb/docs/Admin_Rules/arfiscal_notes.htm

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*Agencies highlighted in yellow have one or more rules with a fiscal impact of \$100,000 per year or more.

Department of Human Services

ARC 1261C

Rule Summary Implements provisions of the Patient Protection and Affordable Care Act of 2010 and the Health Care and Education Reconciliation Act of 2010 collectively referred to as the Affordable Care Act, pursuant to federal regulations published July 15, 2013, and the Children’s Health Insurance Program Reauthorization Act of 2009 (CHIPRA).

The Affordable Care Act establishes an Exchange, that is a governmental agency or nonprofit entity that provides qualified health plans available to qualified individuals and qualified employers. Unless otherwise identified, this term refers to state exchanges, regional exchanges, subsidiary exchanges and a federally-facilitated exchange. The Exchange will have its own appeals process.

Based on the Affordable Care Act, changes were made to the appeals process for Medicaid and Healthy and Well Kids in Iowa hawk-i. The timeframe to file an appeal is extended from 30 to 90 calendar days. This will allow more time to file an appeal regarding Medicaid and hawk-i cases and matches the appeal timeframes for filing an appeal with the Exchange. Also, changes were made to modernize the way an appellant or their representative may request an appeal and withdraw a request for hearing.

The proposed regulations define the term “authorized representatives” and describe who can be an authorized representative and their responsibilities. Other new definitions were added to better define new terms that are used based on the Affordable Care Act.

Agency Stated Authority: Iowa Code section 234.6.

Administrative Rules – Fiscal Impact Summaries

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Fiscal Impact	Agency Response: The fiscal impact for changes to the appeals process cannot be determined, but are anticipated to be minimal. These changes are required by federal law. LSA Response: The LSA concurs.
Rule Summary	ARC 1262C Updates rules to conform to Iowa statutory changes and federal regulations regarding confidentiality of support payment records maintained by the Child Support Recovery Unit (CSRU) and the Collection Services Center (CSC). The statutory changes were adopted in 2012 to conform to federal safeguarding regulations effective December 30, 2010. Agency Stated Authority: Iowa Code sections <u>217.6</u> and <u>252B.9A(7)</u> .
Fiscal Impact	Agency Response: No fiscal impact. LSA Response: The LSA concurs.
Rule Summary	ARC 1267C & 1268C Implements the January 1, 2014, cost of living increases to several State Supplementary Assistance categories. Agency Stated Impact: Iowa Code section <u>234.6</u> .
Fiscal Impact	Agency Response: This change is estimated to increase General Fund expenditures by \$81,000 in FY 2014 and \$168,000 in FY 2015. Annual cost of living increases are required by federal law. LSA Response: Cost of living increases were provided for the following categories: <ul style="list-style-type: none">• Residential Care Facility (RCF) is increased from \$29.30 to \$29.66 per bed day.• Personal Needs Allowance for RCFs is increased from \$98.00 to \$100.00 per month.• Dependent Person payment is increased by \$6.00 per month and the maximum from \$364.00 to \$370.00.• Family Life Home payment is increased \$9.00 per month from \$774.00 to \$783.00. The State Supplementary Income Program is increased from \$710.00 to \$721.00 minus a \$2.00 deduction and the personal needs allowance is increased by \$2.00 from \$98.00 to \$100.00.
Rule Summary	ARC 1265C & 1266C Adds language to define overuse of Medicaid services and to allow the Department to restrict lock-in Medicaid services to only those provided by a designated provider when the Department has determined that a Medicaid member has overused Medicaid services. Agency Stated Authority: Iowa Code section <u>249A.4</u> .
Fiscal Impact	Agency Response: No fiscal impact. LSA Response: This Program is already implemented and reinstates a rule that was inadvertently omitted from a previous rule.

ARC 1264C

Rule Summary Clarifies coverage under the Non-Emergency Medical Transportation (NEMT) Program. The revised rules also identify the conditions and limitations of the Program.

Agency Stated Authority: Iowa Code section 249A.4.

Fiscal Impact **Agency Response:** No fiscal impact.

LSA Response: The state Medicaid program pays for NEMT services through a fixed price per member per month capitation payment to the NEMT broker. This rule change does not alter this capitation arrangement, and therefore, there is no fiscal impact to the State.

ARC 1287C

Rule Summary Amends the rules to reflect programmatic changes affecting the hawk-i program as required by the federal Patient Protection and Affordable Care Act. This rule specifically changes the income guidelines to reflect the Modified Adjusted Gross Income (MAGI) equivalent guidelines given to the State by the Centers for Medicare and Medicaid Services (CMS). The MAGI is a national family income standard that all States must consider when determining eligibility for participation in insurance affordability programs such as Medicaid, Children’s Health Insurance Program (CHIP), and plans offered through the Health Insurance Marketplace/Exchange.

Agency Stated Authority: Iowa Code Section 514I.1.

Fiscal Impact **Agency Response:** No fiscal impact.

LSA Response: This change is required by federal law. The changes in MAGI income methodology will result in the movement of children between Medicaid and hawk-i. The CMS has stated that the conversion to the MAGI methodology was designed to keep everything constant in the aggregate.

ARC 1263C

Rule Summary Adopts the following amendments for record check evaluations for certain employees and educational programs:

- Allows for conditional employment in a hospital or a health care facility for up to 60 calendar days pending completion of the evaluation.
- Allows for conditional participation in a training program pending completion of a record check evaluation for up to 60 days.
- Permits a person to commence employment without further action by the Department if a previous evaluation has been performed and specified conditions are met.
- Permits a new employee to commence employment after 30 days without further action by the Department if a previous evaluation has been performed and specified conditions are met.

Agency Stated Authority: Iowa Code section 217.6.

Fiscal Impact **Agency Response:** No fiscal impact.

LSA Response: This rule change may result in a small reduction in the number of record check evaluations prepared by the DHS staff. The impact on workload is anticipated to be minimal.

Utilities Division

ARC 1259C

Rule Summary Establishes procedures for the safe installation of pole attachments to utility poles. The proposed amendments are designed ensure that pole attachments comply with the safety regulations in the Iowa Electrical Safety Code.

These changes were published June 12, 2013, as ARC 0784C. The Board considered the received comments and agreed that it should adopt language in paragraph 25.4(2) that exempted service drops and overlashing from the prior written request requirement but required notice to the pole owner of the installation of service drops and overlashing. The Board revised paragraph 25.4(2) to require responses to all violations within 60 days and for corrective action within 180 days rather than multiple time periods based on the number of violations with the intent of reducing confusion.

Agency Stated Authority: Iowa Code chapters 476 and 478.

Fiscal Impact **Agency Response:** No fiscal impact on the State. The changes may have a beneficial effect on safety and reliability of electric service which could provide an economic benefit. The benefit cannot be quantified.

LSA Response: The changes will impact utility companies and not the State.

STAFF CONTACT: Dwayne Ferguson (515-281-6561) dwayne.ferguson@legis.iowa.gov

Child Advocacy Board

ARC 1285C

Rule Summary Establishes standards for the Court Appointed Special Advocate (CASA) program to formalize requirements for selection and screening of volunteers, pre service training, ongoing education, assignments, and supervision of volunteers. The CASA Program provides advocates for children that were abused or neglected, are under court jurisdiction, and are often placed in out of home care.

Agency Stated Authority: Iowa Code section 237.18.

Fiscal Impact **Agency Response:** No fiscal impact.

LSA Response: The LSA concurs that there will be no fiscal impact for the rules. There is no increased cost related to the volunteer positions and travel expenses are funded through a national grant.

STAFF CONTACT: Estelle Montgomery (515-281-6764), estelle.montgomery@legis.iowa.gov

Economic Development Authority

ARC 1289C

Rule Summary Allows qualifying businesses additional time for the Tax Credits for Investments in Qualifying Businesses and Community-Based Seed Capital Funds Program. Requires documentation that equity financing goals have been met.

Agency Stated Authority: Iowa Code section 15E.44.

Fiscal Impact **Agency Response:** No fiscal impact.

LSA Response: No fiscal impact.

STAFF CONTACT: Kenneth Ohms (515-725-2200) kenneth.ohms@legis.iowa.gov

Department of Inspections and Appeals

ARC 1291C

Rule Summary Clarifies the parameters an assisted living program or adult day services must follow in order to avoid licensure as a food establishment.

Agency Stated Authority: Iowa Code chapters [137F](#), [231C](#), and [231D](#).

Fiscal Impact **Agency Response:** No fiscal impact to the State. Adoption of the rules may reduce costs for assisted living programs and adult day service providers, as they will no longer be required to obtain licensure as a food establishment under certain circumstances.

LSA Response: There is a trend for counties and municipalities to turn over food inspections to the Department of Inspections and Appeals (DIA). These rules will help ensure the DIA or local agencies do not have additional inspections.

STAFF CONTACT: Dwayne Ferguson (515-281-6561) dwayne.ferguson@legis.iowa.gov

Labor Services Division

ARC 1271C

Rule Summary Adopts a new administrative code chapter to implement reciprocal resident bidder preferences in government contracting.

Agency Stated Authority: Iowa Code section [73A.21](#).

Fiscal Impact **Agency Response:** No fiscal impact.

LSA Response: No fiscal impact.

STAFF CONTACT: Kenneth Ohms (515-725-2200) kenneth.ohms@legis.iowa.gov

Iowa Lottery Authority

ARC 1283C

Rule Summary Provides discretion to the Lottery as to whether to suspend a retailer for the sale of a lottery ticket to an individual under the age of 21 years old. The language is changed from “shall” to “may” suspend.

Agency Stated Authority: Iowa Code section [99G.9](#).

Fiscal Impact **Agency Response:** Any added revenue from not having to suspend the retailer will be minimal, and no other fiscal impact is anticipated. The rule will no longer automatically require the Lottery to suspend a retailer. The Lottery needs discretion as to whether to suspend lottery ticket sales to encourage retailers to self-report incidents. The Lottery does not want to be forced to penalize the retailer when they cooperate in these instances.

LSA Response: The Lottery may suspend or revoke a license for a number of reasons. This change expands the Lottery’s discretion concerning suspension of a

license for the sale of a ticket to a minor. It is not clear what criteria will be used to decide whether to suspend or not.

STAFF CONTACT: Dwayne Ferguson (515- 281-6561) dwayne.ferguson@legis.iowa.gov

Department of Public Health (DPH)

ARC 1293C

Rule Summary Senate File 419 creates a vision screening requirement for children enrolled in a public or accredited nonpublic elementary school and directs the DPH to adopt rules necessary to administer vision screening. The rule fulfills those requirements.

Agency Stated Authority: Senate File 419.

Fiscal Impact **Agency Response:** The Department will incur cost for the development of the Vision Health Screening Module. The one-time software programming cost to develop the Vision Module in the Immunization Registry Information System (IRIS) is \$178,451. Annual ongoing hosting and maintenance costs are estimated at \$39,384.

LSA Response: This estimate uses the best available information.

ARC 1294C

Rule Summary Allows the State Registrar to retain any overpayment for Vital Records services in the amount of \$5.00 or less.

Agency Stated Authority: Iowa Code sections 144.3 and 144.46.

Fiscal Impact **Agency Response:** The Agency estimates annual overpayments in the amount of \$450 would cost \$3,500 to return. The DPH will not spend \$40.00 to return \$5.00 as a refund to customers that have mailed in an overpayment of \$5.00 or less. Thus, the DPH could save \$3,050 annually.

LSA Response: This estimate uses the best available information.

ARC 1292C

Rule Summary Corrects an oversight from the previous year's version of the Iowa Emergency Medical Care Provider Scope of Practice suggested by the Emergency Medical Services Advisory Council (EMSAC) by adopting the latest edition.

Agency Stated Authority: Iowa Code section 147A.4.

Fiscal Impact **Agency Response:** No fiscal impact for the rules.

LSA Response: The LSA concurs that there will be no fiscal impact for the rules. The changes are technical alterations.

STAFF CONTACT: Estelle Montgomery (515) 281-6764 estelle.montgomery@legis.iowa.gov

Voter Registration Commission

ARC 1281C

Rule Summary Revises the voter registration application adopted by the Voter Registration Commission as it pertains to individuals that have been convicted of felonies.

Agency Stated Authority: Iowa Code sections 17A.3, 47.1, 47.8, and 48A.11.

Fiscal Impact **Agency Response:** Fiscal impact of less than \$100,000 annually or \$500,000 over 5 years. County auditors, voter registration groups, and voter registration agencies will need to purchase or print new voter registration applications.

LSA Response: No net fiscal impact for the State.

STAFF CONTACT: Ron Robinson (515-281-6256) ron.robinson@legis.iowa.gov

Insurance Division

ARC 1279C

Rule Summary Corrects cross reference mistakes that were inadvertently overlooked in a previous rulemaking. The subject of the rule deals with the procedural requirements to carry out provisions of Senate File 182 (Insurance Division – Credit for Reinsurance Model), sections one to six passed during the 2013 Legislative Session.

These rules were published in the November 13, 2013, Iowa Administrative Bulletin as ARC 1178C. Technical edits were made, and item four, regarding permissive language dealing with a reinsurance agreement entered into in conjunction with the trust agreement, is eliminated.

Agency Stated Authority: Iowa Code section 505.8 and Senate File 182 (Insurance Division – Credit for Reinsurance Model), section 5.

Fiscal Impact **Agency Response:** There is no fiscal impact to Iowa.

LSA Response: Reference corrections do not have a fiscal impact.

ARC 1295C

Rule Summary Clarifies duties of insurers and Pharmacy Benefits Managers. The changes include:

- Simplification of wording and renumbering as needed.
- Shortens the time to make payment to the pharmacy to 15 days from 20 days for an electronic filing and 30 days for a paper filing. Payments are overdue if not made within 15 days.
- Provides a deadline for the Pharmacy Benefits Managers to be in compliance with this subrule for contracts between a Pharmacy Benefits Manager and a pharmacy.
- Handling of errors, audits, audit report appeals, termination of contracts and pharmacies' participation in provider networks, third party review, and complaints.
- Duty to notify Commissioner of fraud.

Agency Stated Authority: Iowa Code chapters 505, 507, 510, and 510B

Fiscal Impact **Agency Response:** The costs to the regulated community are unknown. There is no cost to the State. Any additional administrative duties resulting from these changes will be performed by existing Insurance Division staff. Pharmacy Benefits Managers and insurance companies that use Pharmacy Benefits Managers may have to make changes in the manner they deal with pharmacies, particularly in prompt payment of claims, in the conducting of audits, and in the termination of contracts. In addition, the amendments clarify the duties that Pharmacy Benefits Managers have to the Insurance Division, related to providing complaint records to the Insurance Division and related to the examinations of Pharmacy Benefits Managers by the Insurance Division.

LSA Response: The LSA concurs.

STAFF CONTACT: Dwayne Ferguson (515-281-6561) dwayne.ferguson@legis.iowa.gov

Department of Transportation (DOT)

ARC 1260C

Rule Summary Creates a new Administrative Code chapter establishing requirements, procedures, and responsibilities related to the use of automated traffic enforcement (ATE) systems for systems on the primary road system. Rules require local jurisdictions with automated traffic enforcement systems to justify their use by documenting a location as high-crash or high-risk. If the automated traffic enforcement unit is mobile, the jurisdiction must include the proposed duration of use at each location and the physical placement of the unit.

Requires that the placement of an automated traffic enforcement unit not create an unsafe environment for motorists. Permanent signage must be posted in advance of locations where fixed units are placed. Temporary or permanent signage must be posted in advance in locations where mobile units are placed.

Requires an annual evaluation by each local jurisdiction utilizing automated traffic enforcement units. The evaluation must address the impact on speed reduction or the incidence of red light violations, the impact on collisions, the impact on the critical issues included in the justification report, and the number of citations issued for each calendar year the unit is in operation.

Agency Stated Authority: Iowa Code sections 307.10 and 307.12.

Fiscal Impact **Agency Response:** The fiscal impact cannot be determined.

Requires the submission of a justification report for any new ATE system and an annual evaluation report for each jurisdiction with an ATE system on the primary highway system. Jurisdictions that complete the report in-house will incur no fiscal impact. If the report is prepared by a consultant the estimated cost is less than \$10,000.

There is a potential fiscal impact if the Department denies the installation of an ATE system, or requires the removal of an existing ATE systems, the local jurisdiction will lose revenue from the citations issued by the ATE system. At this time it is not possible to determine ATE systems that may be removed or denied. Consequently the fiscal impact cannot be determined. The ATE systems currently in use by the local jurisdictions generate revenues from \$100,000 to over \$1,000,000 per year per local jurisdiction. Motorists will see a corresponding reduction in citations as active ATE systems are reduced.

LSA Response: The LSA concurs there is no fiscal impact to the DOT. The DOT collected information on all ATE systems in August 2013. This data covered FY 2013, and indicated that a total of \$13.0 million was collected by all ATE systems. Of the total, \$9.8 million was collected for speed and \$3.2 million was collected by red light enforcement. This number includes ATE systems on primary, secondary, and city roads. Therefore, it is not indicative of the potential fiscal impact to cities that operate ATE systems.

ARC 1288C

Rule Summary Rescinds Administrative Code Chapter 162 since all funds have been used for the identified projects. This chapter created a bridge fund to administer \$50.0 million for the repair or replacement of deficient bridges. These bridge projects were designed, constructed, and paid for within the prescribed time period.

Agency Stated Authority: Iowa Code sections 307.10 and 307.12.

Fiscal Impact Agency Response: No fiscal impact.

LSA Response: The LSA concurs.

ARC 1270C

Rule Summary Amends five chapters concerning aviation. Changes include:

- Updates the contact information.
- Updates chapters to current practices and provides consistency in documenting eligibility, application process and project review, approval and administration.

Agency Stated Authority: Iowa Code sections 307.1 and 307.12.

Fiscal Impact Agency Response: No fiscal impact.

LSA Response: The LSA concurs.

STAFF CONTACT: Adam Broich (515-281-8223) adam.broich@legis.iowa.gov

Accountancy Examining Board

ARC 1284C

Rule Summary Allows a reinstated licensee or one changing status from inactive to active to use the alternate renewal cycle immediately at their next renewal. Without this amendment, the licensee will not qualify to use this alternate continuing education cycle until four years after reinstatement or a change of status. This is consistent with how all other licensees are expected to maintain continuing education. This eliminates the four years of progressive educational requirements that a reinstated individual now must complete and also removes unnecessary complexity in the renewal process.

Agency Stated Authority: Code chapter 542.

Fiscal Impact Agency Response: No fiscal impact for the State. Any licensee that wishes to reinstate a lapsed expired license will be able to use a rolling 120 hour Continuing Professional Education (CPE) rather than starting fresh with all new CPE. The option will be available at the first renewal cycle after reinstating or changing status.

LSA Response: The licensee is required to earn 120 hours of continuing education within the preceding three years without specifying a certain amount for each of the three years as under the current rules. The licensee pays the education provider directly for continuing education classes. No fees are charged by the Board or the State for continuing education for accountants.

STAFF CONTACT: Dwayne Ferguson (515-281-6561) dwayne.ferguson@legis.iowa.gov

Department of Agriculture and Land Stewardship

ARC 1290C

Rule Summary Repeals rules in the Department of Agriculture and Land Stewardship (DALs) related to the Grape and Wine Program as the Program has been administered by Iowa State University Extension and Outreach since September 2006.

Agency Stated Authority: Repeal of Iowa Code chapter 175A on June 30, 2010. Iowa Board of Regents meeting – September 2006.

Fiscal Impact **Agency Response:** No fiscal impact.

LSA Response: No fiscal impact. Beginning in FY 2011, with the passage of HF 2525 (FY 2011 Agriculture and Natural Resources Appropriations Act), the DALS is required to transfer \$238,000 of the General Fund appropriation for operations to Midwest Grape and Wine Industry Institute at Iowa State University (ISU). The Institute is under the administration of the ISU Extension and Outreach and the rules related to the administration of the Grape and Wine Program are no longer needed.

Rule Summary **ARC 1278C**
Requires the testing of bulls for Trichomoniasis prior to bringing them into Iowa from out-of-state. The testing requirement will not apply to rodeo bulls, bulls being sent to slaughter, and virgin bulls under 24 months of age.

Trichomoniasis is a venereal disease in cattle that must be reported in Iowa. The animal shows no signs of illness but the disease can spread to cows and causes infertility. In June 2012, two bulls were found to have the disease in Iowa. The Iowa Veterinary Medical Association has been conducting a survey project to randomly sample non-virgin bulls for Trichomoniasis.

Agency Stated Authority: Iowa Code section 163.1 (1).

Fiscal Impact **Agency Response:** No fiscal impact.

LSA Response: No fiscal impact to the State. The Department has found nine cases of the disease. Three of the cases were through reporting and six from random sampling. Currently, 23 other states test for this disease.

Rule Summary **ARC 1280C**
Changes rules related to financial statements and appraisals submitted by grain warehouse operators and grain dealers. The changes include:

- Allows the DALS to request additional financial information from grain warehouse operators and dealers on a monthly or quarterly basis if needed. The minimum request will include a balance sheet and income statement.
- Asset valuation appraisals on file with the Department are valid for three years and a new appraisal will be required after the expiration date. If a certified public accountant expresses concern on a licensee's ability to continue as a going concern, the Department will not allow an appraisal to be used to determine net worth or to determine the percentage of total liabilities to total assets.

Agency Stated Authority: Iowa Code section 203C.

Fiscal Impact **Agency Response:** No fiscal impact.

LSA Response: No fiscal impact. The Department's website provides additional information:
<http://www.iowaagriculture.gov/grainWarehouse/grainDealerLicensing.asp>.

Architectural Examining Board

ARC 1282C

Rule Summary Removes the biennial renewal requirement and fee for architect registrants in retired status.

Agency Stated Authority: Iowa Code chapter 544A.

Fiscal Impact **Agency Response:** The State will no longer receive about \$750 per year in fees from the approximately 30 retired architects. Some of the other professions within the Bureau do not charge a fee for retired status, so with this change, the Board will align with similar boards.

LSA Response: The revenue reduction is not significant.

STAFF CONTACT: Dwayne Ferguson (515-281-6561) dwayne.ferguson@legis.iowa.gov

Board of Educational Examiners

ARC 1272C

Rule Summary Aligns Board of Educational Examiners rules regarding minimum grade point average (GPA) requirements for a teacher intern license to the Department of Education language. Current Board rules state there is a minimum bachelor's degree GPA requirement in order for the teacher intern license to be issued. Administrative Code Chapter 77 rules within the Department of Education address GPA for admission to the program, and the rules make an allowance that candidates may be admitted conditionally if they have not met the minimum GPA.

Agency Stated Authority: Iowa Code section 272.2.

Fiscal Impact **Agency Response:** The proposed amendment will not require any state expenditures.

LSA Response: No fiscal impact.

STAFF CONTACT: John Parker (515-725-2249) john.parker@legis.iowa.gov

Employment Appeal Board

ARC 1269C

Rule Summary Permits parties to file unemployment insurance appeals online using a form available on the Iowa Workforce Development website.

Agency Stated Authority: Iowa Code section 10A.601(6).

Fiscal Impact **Agency Response:** No fiscal impact.

LSA Response: No fiscal impact.

STAFF CONTACT: Kenneth Ohms (515-725-2200) kenneth.ohms@legis.iowa.gov

Professional Licensure Division

ARC 1274C

Rule Summary Requires funeral directors to complete embalming records, identifies funeral records that are to be created and maintained, and establishes a new section on intern training requirements.

Agency Stated Authority: Iowa Code section 147.76.

Fiscal Impact **Agency Response:** No fiscal impact.

LSA Response: The LSA concurs that there will be no fiscal impact. The changes are technical alterations to add clarity and to more closely align rules with current practices.

ARC 1275C

Rule Summary Removes duplicate language for funeral directors and amends notification requirements to maintain consistency.

Agency Stated Authority: Iowa Code section 147.10.

Fiscal Impact **Agency Response:** No fiscal impact for the rules.

LSA Response: The LSA concurs that there will be no fiscal impact for the rules. The changes are technical alterations.

STAFF CONTACT: Estelle Montgomery (515- 281-6764), estelle.montgomery@legis.iowa.gov

Department of Workforce Development

ARC 1286C

Rule Summary Clarifies that vacation pay includes excused personal leave, paid time off, and annual leave payments, and are deductible from Unemployment Insurance Benefits.

Agency Stated Authority: Iowa Code sections 96.3(3), 96.5, 96.5(5), 96.5(7), 96.11(1), and 96.19(38).

Fiscal Impact **Agency Response:** No fiscal impact.

LSA Response: Minimal fiscal impact. If an Unemployment Insurance recipient has paid time off benefits from an employer during the same time period, the rule change will cause a reduction in their benefits until the paid time off has been exhausted.

ARC 1276C

Rule Summary Permits parties to file Unemployment Insurance appeals online using a form that will be on the Iowa Workforce Development website.

Agency Stated Authority: Iowa Code section 96.6(3) and 96.7(4).

Fiscal Impact **Agency Response:** No fiscal impact.

LSA Response: No fiscal impact.

ARC 1277C

Rule Summary Provides that a party that appeals a decision but does not participate in the appeal hearing may have the appeal dismissed at the discretion of the presiding officer. The appealing party may request to reopen the hearing if that party had good cause for failing to appear. Also makes technical corrections.

Agency Stated Authority: Iowa Code section 96.6(3).

Fiscal Impact Agency Response: No fiscal impact.

LSA Response: No fiscal impact.

STAFF CONTACT: Kenneth Ohms (515-725-2200) kenneth.ohms@legis.iowa.gov
