

HUMAN SERVICES DEPARTMENT [441]

DRAFT ONLY: Dates herein may not comply with Schedule for Rule Making.

Adopted and Filed Emergency

Rule making related to the incentive fund.

The Human Services Department hereby amends Chapter 25, "Disability Services Management," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 225C.7A.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 225C.7A.

Purpose and Summary

2021 Iowa Acts, Senate File 619, amended Iowa Code section 225C.7A to implement the incentive fund for Mental Health Disability Services (MHDS) regions. This legislation created a fund for the purpose of providing financial incentives for outcomes met from services provided by the mental health and disability services regions. These proposed rules implement the process for a region to apply for funds, establish the criteria for eligibility for the incentive fund, set timeframes for review and approval of applications and establish the reporting and financial review requirements.

Reason for Adoption of Rule Making Without Prior Notice and Opportunity for Public Participation

Pursuant to Iowa Code section 17A.4(3), the Department finds that notice and public participation are unnecessary or impractical because the emergency adoption was reviewed by the Administrative Rules Review Committee on October 4, 2021. 2021 Iowa Acts, Senate File 619, section 109, allows emergency adoption due to applications being due to the MHDS regions by November 15, 2021. This is also a benefit as it will have a positive impact on regions which are eligible for incentive funds through an expedited process.

Reason for Waiver of Normal Effective Date

Pursuant to Iowa Code section 17A.5(2) "b"(1)(a),(b) the Department also finds that the normal effective date of this rule making, 35 days after publication, should be waived and the rule making made effective on October 4, 2021, because section 109 of Senate File 619 so provides and it will have a positive impact on regions which are eligible for incentive funds by making the funds available through an expedited process.

Adoption of Rule Making

This rule making was reviewed and adopted by the MHDS Commission on September 16, 2021.

Fiscal Impact

SF 619 (2021) appropriated \$3M of general funds to the incentive fund for SFY22. The amount of incentive fund expenditures is not yet known. Any additional expenditures in Year 1 or Year 2 will be funded by the MHDS regions.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 441 IAC 1.8(17A, 217).

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making will become effective on October 4, 2021.

The following rule-making action is adopted:

See Attached.

Proposed Rule changes:

ITEM 1. Amend rule **441—25.11** by adding the following new definition:

“Region incentive fund” means the same as defined in Iowa Code 225C.7A.

ITEM 2. Adopt new rule **441—25.22 as follows:**

441—25.22(225C) Incentive fund application, approval, and reporting.

25.22(1) Application for regional incentive funds. A mental health and disability services region must submit an application on forms specified by the department with required supporting documentation. An application to receive regional incentive funds must meet the following requirements:

a. The mental health and disability services region shall submit the application with supporting documentation electronically to the department by 4:30 on November 15, 2021 for state fiscal year 2022 funding.

b. The mental health and disability services region shall submit the application with supporting documentation electronically to the department by 4:30 on November 15, 2022 for state fiscal year 2023 funding.

c. The application shall be complete and signed by the chairperson of the mental health and disability services region governing board and regional chief executive officer.

d. Application supporting documentation shall include evidence to demonstrate compliance with 441-25.22(2).

25.22(2) Applicant conditions. To receive funding in state fiscal year 2022 and 2023 the mental health and disability services region must meet the following conditions:

a. The mental health and disability services region must be in compliance with the regional service system management plan as defined in Iowa Code section 331.393.

b. Applicants for state fiscal year 2022 funding must have an ending balance in the region’s combined services fund equal to or less than forty percent of the actual expenditures in state fiscal year 2020.

c. Applicants for state fiscal year 2023 funding must have an ending balance in the region’s combined services fund equal to or less than twenty percent of the actual expenditures in state fiscal year 2021.

d. The mental health and disability services region must need incentive funds for one or more of the following circumstances:

1. Operating in a deficit and a reduction in available funding for core services as the result of the reduction and elimination of the levy.

2. Support of non-core services to maintain individuals in a community setting or reduce the risk that individuals needing services and supports would be placed in more restrictive, higher-cost settings.

25.22(3) Incentive fund application review and approval. The department shall make its final decisions for incentive funds on or before December 15 of the fiscal year of application.

a. A written notice regarding acceptance or rejection of an application, and the total amount obligated shall be furnished to the mental health and disability services region.

b. The department shall distribute incentive funds payable to the mental health and disability services regions for the amounts due on or before January 1.

25.22(4) Incentive fund reporting. Mental health and disability services regions shall submit to the department a report on forms specified by the department twice each calendar year subsequent to an award distribution. Reports shall be submitted by February 15 and August 15.

25.22(5) Incentive fund review. The department shall analyze year-end financial records and annual independent audits of the mental health and disability services region for all years subsequent to an incentive fund award. If the department determines a mental health and disability services region's actual need for incentive funds was less than the amount of incentive funds granted, the mental health and disability services region shall refund the difference between the amount of assistance granted and the actual need.

a. A written notice outlining the department's findings and monies identified for repayment shall be furnished to the regional administrative entity.

b. The mental health and disability services region shall submit the refund within thirty days of receiving notice from the department. Refunds shall be credited to the incentive fund.