



# IOWA ADMINISTRATIVE BULLETIN

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Pages 291 to 388

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## PREFACE

The Iowa Administrative Bulletin is published biweekly pursuant to Iowa Code chapters 2B and 17A and contains Notices of Intended Action and rules adopted by state agencies.

It also contains Proclamations and Executive Orders of the Governor which are general and permanent in nature; Regulatory Analyses; effective date delays and objections filed by the Administrative Rules Review Committee; Agenda for monthly Administrative Rules Review Committee meetings; and other materials deemed fitting and proper by the Administrative Rules Review Committee.

The Bulletin may also contain public funds interest rates [12C.6]; workers' compensation rate filings [515A.6(7)]; usury rates [535.2(3)"a"]; and agricultural credit corporation maximum loan rates [535.12].

**PLEASE NOTE:** Underscore indicates new material added to existing rules; ~~strike through~~ indicates deleted material.

STEPHANIE A. HOFF, Administrative Code Editor

Telephone: (515)281-3355

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### CITATION of Administrative Rules

The Iowa Administrative Code shall be cited as (agency identification number) IAC (chapter, rule, subrule, lettered paragraph, or numbered subparagraph).

441 IAC 79	(Chapter)
441 IAC 79.1	(Rule)
441 IAC 79.1(1)	(Subrule)
441 IAC 79.1(1)"a"	(Paragraph)
441 IAC 79.1(1)"a"(1)	(Subparagraph)

The Iowa Administrative Bulletin shall be cited as IAB (volume), (number), (publication date), (page number), (ARC number).

IAB Vol. XII, No. 23 (5/16/90) p. 2050, ARC 872A

NOTE: In accordance with Iowa Code section 2B.5A, a rule number within the Iowa Administrative Code includes a reference to the statute which the rule is intended to implement: 441—79.1(249A).

## Schedule for Rule Making 2014

NOTICE SUBMISSION DEADLINE	NOTICE PUB. DATE	HEARING OR COMMENTS 20 DAYS	FIRST POSSIBLE ADOPTION DATE 35 DAYS	ADOPTED FILING DEADLINE	ADOPTED PUB. DATE	FIRST POSSIBLE EFFECTIVE DATE	POSSIBLE EXPIRATION OF NOTICE 180 DAYS
<b>*Dec. 18 '13*</b>	Jan. 8 '14	Jan. 28 '14	Feb. 12 '14	Feb. 14 '14	Mar. 5 '14	Apr. 9 '14	July 7 '14
Jan. 3	Jan. 22	Feb. 11	Feb. 26	Feb. 28	Mar. 19	Apr. 23	July 21
Jan. 17	Feb. 5	Feb. 25	Mar. 12	Mar. 14	Apr. 2	May 7	Aug. 4
Jan. 31	Feb. 19	Mar. 11	Mar. 26	Mar. 28	Apr. 16	May 21	Aug. 18
Feb. 14	Mar. 5	Mar. 25	Apr. 9	Apr. 11	Apr. 30	June 4	Sep. 1
Feb. 28	Mar. 19	Apr. 8	Apr. 23	Apr. 25	May 14	June 18	Sep. 15
Mar. 14	Apr. 2	Apr. 22	May 7	May 9	May 28	July 2	Sep. 29
Mar. 28	Apr. 16	May 6	May 21	<b>***May 21***</b>	June 11	July 16	Oct. 13
Apr. 11	Apr. 30	May 20	June 4	June 6	June 25	July 30	Oct. 27
Apr. 25	May 14	June 3	June 18	June 20	July 9	Aug. 13	Nov. 10
May 9	May 28	June 17	July 2	<b>***July 2***</b>	July 23	Aug. 27	Nov. 24
<b>***May 21***</b>	June 11	July 1	July 16	July 18	Aug. 6	Sep. 10	Dec. 8
June 6	June 25	July 15	July 30	Aug. 1	Aug. 20	Sep. 24	Dec. 22
June 20	July 9	July 29	Aug. 13	Aug. 15	Sep. 3	Oct. 8	Jan. 5 '15
<b>***July 2***</b>	July 23	Aug. 12	Aug. 27	<b>***Aug. 27***</b>	Sep. 17	Oct. 22	Jan. 19 '15
July 18	Aug. 6	Aug. 26	Sep. 10	Sep. 12	Oct. 1	Nov. 5	Feb. 2 '15
Aug. 1	Aug. 20	Sep. 9	Sep. 24	Sep. 26	Oct. 15	Nov. 19	Feb. 16 '15
Aug. 15	Sep. 3	Sep. 23	Oct. 8	Oct. 10	Oct. 29	Dec. 3	Mar. 2 '15
<b>***Aug. 27***</b>	Sep. 17	Oct. 7	Oct. 22	<b>***Oct. 22***</b>	Nov. 12	Dec. 17	Mar. 16 '15
Sep. 12	Oct. 1	Oct. 21	Nov. 5	<b>***Nov. 5***</b>	Nov. 26	Dec. 31	Mar. 30 '15
Sep. 26	Oct. 15	Nov. 4	Nov. 19	<b>***Nov. 19***</b>	Dec. 10	Jan. 14 '15	Apr. 13 '15
Oct. 10	Oct. 29	Nov. 18	Dec. 3	<b>***Dec. 3***</b>	Dec. 24	Jan. 28 '15	Apr. 27 '15
<b>***Oct. 22***</b>	Nov. 12	Dec. 2	Dec. 17	<b>***Dec. 17***</b>	Jan. 7 '15	Feb. 11 '15	May 11 '15
<b>***Nov. 5***</b>	Nov. 26	Dec. 16	Dec. 31	Jan. 2 '15	Jan. 21 '15	Feb. 25 '15	May 25 '15
<b>***Nov. 19***</b>	Dec. 10	Dec. 30	Jan. 14 '15	Jan. 16 '15	Feb. 4 '15	Mar. 11 '15	June 8 '15
<b>***Dec. 3***</b>	Dec. 24	Jan. 13 '15	Jan. 28 '15	Jan. 30 '15	Feb. 18 '15	Mar. 25 '15	June 22 '15
<b>***Dec. 17***</b>	Jan. 7 '15	Jan. 27 '15	Feb. 11 '15	Feb. 13 '15	Mar. 4 '15	Apr. 8 '15	July 6 '15

### PRINTING SCHEDULE FOR IAB

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
7	Friday, September 12, 2014	October 1, 2014
8	Friday, September 26, 2014	October 15, 2014
9	Friday, October 10, 2014	October 29, 2014

**PLEASE NOTE:**

Rules will not be accepted after **12 o'clock noon** on the Friday filing deadline days unless prior approval has been received from the Administrative Rules Coordinator's office.

If the filing deadline falls on a legal holiday, submissions made on the following Monday will be accepted.

**\*\*\*Note change of filing deadline\*\*\***

The Administrative Rules Review Committee will hold its regular, statutory meeting on Tuesday, September 9, 2014, at 9 a.m. in Room 116, State Capitol, Des Moines, Iowa. The following rules will be reviewed:

NOTE: See also Agenda published in the August 20, 2014, Iowa Administrative Bulletin.

### EDUCATIONAL EXAMINERS BOARD[282]

EDUCATION DEPARTMENT[281]"umbrella"

Special education endorsements, 14.2	Notice	ARC 1602C	9/3/14
Native language teaching authorization, 22.6 to 22.8	Notice	ARC 1604C	9/3/14
Montessori authorization, 22.9	Notice	ARC 1603C	9/3/14
Activities administration authorization, 22.10	Notice	ARC 1605C	9/3/14

### EDUCATION DEPARTMENT[281]

Appeal procedures for federal programs, 6.23	Filed	ARC 1597C	9/3/14
Statewide work-based learning intermediary network, ch 48	Notice	ARC 1598C	9/3/14
Supplementary weighting—whole-grade sharing and operational services, 97.1, 97.5, 97.7	Filed	ARC 1596C	9/3/14

### HUMAN SERVICES DEPARTMENT[441]

Appeals—definition of “aggrieved person”; appeal of proposed decision by department, 7.1, 7.16(6)	Filed	ARC 1611C	9/3/14
Iowa health and wellness plan; accountable care organizations, 74.1, 74.2(2), 74.5, 74.6, 74.8, 74.10 to 74.12, 77.51	Notice	ARC 1618C	9/3/14
Prior authorization for high-technology radiology procedures, 78.28(11)	Notice	ARC 1620C	9/3/14
Medicaid—legal representative as paid provider of funded services to members, 78.34, 78.37, 78.38, 78.41, 78.43, 78.46, 79.1(2), 79.9	Filed Emergency After Notice	ARC 1610C	9/3/14
Reimbursement rate increase for emergency medical service providers, 79.1(2)	Filed	ARC 1609C	9/3/14
Reimbursement rate for primary care services, 79.1(2), 79.1(7)“c”	Notice	ARC 1617C	9/3/14
Disproportionate share payments to hospitals, 79.1(5)	Notice	ARC 1619C	9/3/14
Medicaid—alternative reimbursement rate methodology for community mental health centers, 79.1(25)	Filed	ARC 1608C	9/3/14
Medical assistance program—sanctions, program integrity, 79.2, 79.3(2), 79.14(3)	Notice	ARC 1621C	9/3/14
Minimum foster group care payment rates, 156.9	Filed	ARC 1607C	9/3/14
Eligibility for child care assistance, 170.1, 170.2	Filed	ARC 1606C	9/3/14

### INSPECTIONS AND APPEALS DEPARTMENT[481]

Elder group homes and adult day services programs—informal conference process to contest department’s final findings, 67.12 to 67.14	Notice	ARC 1616C	9/3/14
Subacute mental health care facilities, ch 71	Notice	ARC 1615C	9/3/14

### IOWA FINANCE AUTHORITY[265]

Military home ownership assistance program, 27.2, 27.3	Notice	ARC 1594C, also Filed Emergency	ARC 1595C	9/3/14
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### NATURAL RESOURCE COMMISSION[571]

NATURAL RESOURCES DEPARTMENT[561]"umbrella"

State migratory waterfowl, trout and habitat stamp design contests; controlled hunting areas, rescind chs 9, 53	Notice	ARC 1622C	9/3/14
Waterfowl and coot hunting seasons; special September teal season, 91.1, 91.3, 91.6	Filed Emergency After Notice	ARC 1614C	9/3/14

### REGENTS BOARD[681]

Monetary sanctions for parking offenses at Iowa State University, 4.31(2)	Filed	ARC 1599C	9/3/14
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### TRANSPORTATION DEPARTMENT[761]

Iowa driver’s licenses and nonoperator’s identification cards, 602.11(1), 602.12(1), 602.13(1), 602.14, 605.2, 605.11, 605.20, 607.16, 630.2, 630.3	Notice	ARC 1601C	9/3/14
Driver education—teaching parent; driving test, 604.31, 634.11	Filed	ARC 1612C	9/3/14

### TREASURER OF STATE[781]

Required public funds custodial agreement provisions, 15.1(3), 15.2	Notice	ARC 1613C	9/3/14
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**UTILITIES DIVISION[199]**

COMMERCE DEPARTMENT[181]"umbrella"

Renewable energy tax credits—extension of time limits, 15.19(1), 15.21 Notice **ARC 1600C**..... 9/3/14

**ADMINISTRATIVE RULES REVIEW COMMITTEE MEMBERS**

Regular, statutory meetings are held the second Tuesday of each month at the seat of government as provided in Iowa Code section 17A.8. A special meeting may be called by the Chair at any place in the state and at any time.

Senator Mark Chelgren  
819 Hutchinson  
Ottumwa, Iowa 52501

Representative Lisa Heddens  
4115 Wembley Avenue  
Ames, Iowa 50010

Senator Thomas Courtney  
2609 Clearview  
Burlington, Iowa 52601

Representative Rick Olson  
3012 East 31st Court  
Des Moines, Iowa 50317

Senator Wally Horn  
101 Stoney Point Road, SW  
Cedar Rapids, Iowa 52404

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Mt. Auburn, Iowa 52313

Senator Pam Jochum  
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Dubuque, Iowa 52001

Representative Jeff Smith  
185 NE Gracewood Drive  
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**CREDIT UNION DIVISION[189]**

Credit union investments, 1.4, 17.2, 17.5, 17.8(2), 17.9(4), 17.14, 17.16 IAB 8/20/14 <b>ARC 1580C</b>	Conference Room, Division Offices 200 E. Grand Ave., Suite 370 Des Moines, Iowa	September 15, 2014 1 p.m.
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**EDUCATIONAL EXAMINERS BOARD[282]**

Special education endorsements, 14.2 IAB 9/3/14 <b>ARC 1602C</b>	State Board Room, Second Floor Grimes State Office Bldg. Des Moines, Iowa	September 24, 2014 1 p.m.
Native language teaching authorization, 22.6 to 22.8 IAB 9/3/14 <b>ARC 1604C</b>	State Board Room, Second Floor Grimes State Office Bldg. Des Moines, Iowa	September 24, 2014 1 p.m.
Montessori authorization, 22.9 IAB 9/3/14 <b>ARC 1603C</b>	State Board Room, Second Floor Grimes State Office Bldg. Des Moines, Iowa	September 24, 2014 1 p.m.
Activities administration authorization, 22.10 IAB 9/3/14 <b>ARC 1605C</b>	State Board Room, Second Floor Grimes State Office Bldg. Des Moines, Iowa	September 24, 2014 1 p.m.

**EDUCATION DEPARTMENT[281]**

Statewide work-based learning intermediary network, ch 48 IAB 9/3/14 <b>ARC 1598C</b>	State Board Room, Second Floor Grimes State Office Bldg. Des Moines, Iowa	September 23, 2014 9 to 10 a.m.
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**INSPECTIONS AND APPEALS DEPARTMENT[481]**

Subacute mental health care facilities, ch 71 IAB 9/3/14 <b>ARC 1615C</b>	Room 320 Lucas State Office Bldg. Des Moines, Iowa	September 24, 2014 10 a.m.
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Notification—termination of relationship between navigator entity and individual navigator, 85.9(4) IAB 8/20/14 <b>ARC 1592C</b>	Fourth Floor, Two Ruan Bldg. 601 Locust St. Des Moines, Iowa	September 9, 2014 2:30 p.m.
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Low-income housing tax credit program—qualified allocation plans, 12.1 to 12.4 IAB 8/20/14 <b>ARC 1585C</b>	Authority Offices 2015 Grand Ave. Des Moines, Iowa	September 9, 2014 1 to 4 p.m.
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**NATURAL RESOURCE COMMISSION[571]**

State migratory waterfowl, trout and habitat stamp design contests; controlled hunting areas, rescind chs 9, 53 IAB 9/3/14 <b>ARC 1622C</b>	Conference Room 4 East Wallace State Office Bldg. Des Moines, Iowa	September 25, 2014 1 to 1:30 p.m.
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Fishing regulations; trotlines, 81.1 to 81.3; rescind ch 85 IAB 8/6/14 <b>ARC 1565C</b>	Visitor Center Lewis and Clark State Park 21914 Park Loop Onawa, Iowa	September 2, 2014 6:30 p.m.
	Dickinson County Nature Center 2279 170th St. Okoboji, Iowa	September 3, 2014 6:30 p.m.
	Conference Room 4W Wallace State Office Bldg. 502 E. 9th St. Des Moines, Iowa	September 4, 2014 3 p.m.

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**TRANSPORTATION DEPARTMENT[761]**

Iowa driver's licenses and nonoperator's identification cards, amendments to chs 602, 605, 607, 630 IAB 9/3/14 <b>ARC 1601C</b>	DOT Motor Vehicle Division Offices 6310 SE Convenience Blvd. Ankeny, Iowa	September 25, 2014 10 a.m. (If requested)
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**UTILITIES DIVISION[199]**

Eligibility, certification, and reporting requirements for eligible telecommunications carriers and related confidentiality provisions, 1.9(5), ch 39 IAB 8/6/14 <b>ARC 1563C</b>	Board Hearing Room 1375 E. Court Ave. Des Moines, Iowa	October 28, 2014 9 a.m.
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The following list will be updated as changes occur.

“Umbrella” agencies and elected officials are set out below at the left-hand margin in CAPITAL letters.

Divisions (boards, commissions, etc.) are indented and set out in lowercase type under their statutory “umbrellas.”

Other autonomous agencies are included alphabetically in SMALL CAPITALS at the left-hand margin.

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**FEMA DR-4187-IA**

AGENCY	PROGRAM	ELIGIBLE APPLICANTS	TYPES OF PROJECTS
<p>Iowa Homeland Security and Emergency Management Department (HSEMD)</p>	<p><b>Hazard Mitigation Grant Program (HMGP)</b>                      Authorized by §203 of the Robert T. Stafford Disaster Assistance and Emergency Relief Act (Stafford Act), 42 U.S.C. 5133, as amended by §102 of the Disaster Mitigation Act of 2000 (DMA)</p>	<ul style="list-style-type: none"> <li>• State Agencies and Local Governments</li> <li>• Federally recognized Indian Tribal governments, to include state recognized Indian Tribes, and Authorized Tribal Organizations.</li> <li>• Private Non Profit (PNP) Organizations or institutions which operate a PNP facility as defined in the 44 Code of Federal Regulations (CFR), Section 206.221(e)</li> <li>• All applicants must be participating in the NFIP if they have been identified as having a Special Flood Hazard Area. The Community must not be on probation, suspended or withdrawn from the NFIP.</li> <li>• All Applicants for a project grant MUST have a FEMA approved local hazard mitigation plan.</li> </ul> <p><b>Application Process:</b></p> <ul style="list-style-type: none"> <li>- Potential <b>project &amp; planning</b> applicants must complete a Notice of Interest (NOI) Form located on the HSEMD website at: <a href="http://www.iowahomelandsecurity.org/grants/HMA.html">http://www.iowahomelandsecurity.org/grants/HMA.html</a></li> <li>- NOI Form must be emailed to <a href="mailto:hsemd.mitigation@iowa.gov">hsemd.mitigation@iowa.gov</a></li> <li>- NOIs will be selected for full application development based on funding availability, the State's priority, and an initial eligibility review.</li> <li>- NOIs will be accepted on a continuous basis or until otherwise notified.</li> </ul> <p><b>For additional information, please contact:</b></p> <p style="text-align: center;"><b>Dan Schmitz 515-725-9369</b>  <b>Dennis Harper 515-725-9348</b></p> <p style="text-align: center;"><b>Iowa Homeland Security and Emergency Management Department</b>  <b>7900 Hickman Road</b>  <b>Windsor Heights, IA 50324</b></p>	<p><b>Eligible Project Types</b></p> <p>Projects may be of any nature that will result in protection to public or private property, including but not limited to:</p> <ul style="list-style-type: none"> <li>• Acquisition or relocation of hazard-prone property for conversion to open space in perpetuity</li> <li>• Construction of safe rooms (tornado and severe wind shelters)</li> <li>• Structural and nonstructural retrofitting of existing buildings and facilities (including designs and feasibility studies when included as part of the construction project) for wildfire, seismic, wind or flood hazards (e.g., elevation, flood-proofing, storm shutters, hurricane clips)</li> <li>• Minor structural hazard control or protection projects that may include vegetation management, storm water management (e.g., culverts, floodgates, retention basins), or shoreline/landslide stabilization</li> <li>• Localized flood control projects, such as certain ring levees and floodwall systems, that are designed specifically to protect critical facilities and do not constitute a section of a larger flood control system</li> <li>• Development of multi-jurisdictional hazard mitigation plans and plan updates</li> </ul> <p><b>Planning Application</b></p> <p>The outcome of a mitigation planning grant award must be a FEMA approved hazard mitigation plan that complies with the requirements of 44 CFR Part 201. The planning grant deliverable can be a new hazard mitigation plan or an update of an already FEMA approved hazard mitigation plan.</p>

## ARC 1602C

## EDUCATIONAL EXAMINERS BOARD[282]

## Notice of Intended Action

**Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”**

**Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.**

Pursuant to the authority of Iowa Code section 272.2(1)“a,” the Board of Educational Examiners hereby gives Notice of Intended Action to amend Chapter 14, “Special Education Endorsements,” Iowa Administrative Code.

A committee of school administrators, special education teachers, Area Education Agency staff, Department of Education staff, and Board of Educational Examiners staff met over several months to examine possible changes to the existing special education endorsements. Under the proposed amendments, the K-12 special education endorsement would replace the current instructional strategist I and II endorsements. The K-12 special education endorsement increases specific preparation requirements of special education teachers (both in general education and special education preparation), addresses the noncategorical delivery models of special education, and includes coverage of Iowa’s specific special education issues and practices.

Any interested person may make written comments or suggestions on the proposed amendments before 4 p.m. on Friday, September 26, 2014. Written comments and suggestions should be addressed to Kim Cunningham, Board Secretary, Board of Educational Examiners, at the address below, or sent by e-mail to [kim.cunningham@iowa.gov](mailto:kim.cunningham@iowa.gov), or by fax to (515)281-7669.

Any interested party or persons may present their views either orally or in writing at the public hearing that will be held Wednesday, September 24, 2014, at 1 p.m. in the State Board Room, Second Floor, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa.

At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendments. Persons who wish to make oral presentations at the public hearing may contact the Executive Director, Board of Educational Examiners, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa 50319-0147, or at (515)281-5849, prior to the date of the public hearing.

Any person who intends to attend the public hearing and requires special accommodations for specific needs, such as a sign language interpreter, should contact the office of the Executive Director at (515)281-5849.

These amendments are subject to waiver pursuant to 282—Chapter 6.

After analysis and review of this rule making, there is no anticipated impact on jobs.

These amendments are intended to implement Iowa Code section 272.2(1)“a.”

The following amendments are proposed.

ITEM 1. Amend subrules 14.2(2) to 14.2(7) as follows:

**14.2(2) *Instructional strategist I: mild and moderate.*** This endorsement will sunset July 1, 2019.

*a. to d.* No change.

**14.2(3) *Instructional strategist II: behavior disorders/learning disabilities.*** This endorsement will sunset July 1, 2019. This endorsement authorizes instruction in programs serving students with behavior disorders and learning disabilities from age 5 to age 21 (and to a maximum allowable age in accordance with Iowa Code section 256B.8). The applicant must present evidence of having completed the following program requirements.

*a. to h.* No change.

**14.2(4) *Instructional strategist II: intellectual disabilities.*** This endorsement will sunset July 1, 2019. This endorsement authorizes instruction in programs serving students with intellectual disabilities

## EDUCATIONAL EXAMINERS BOARD[282](cont'd)

from age 5 to age 21 (and to a maximum allowable age in accordance with Iowa Code section 256B.8). The applicant must present evidence of having completed the following program requirements.

*a. to h. No change.*

**14.2(5) *Instructional strategist II: physical disabilities.*** This endorsement will sunset July 1, 2019. This endorsement authorizes instruction in programs serving students with physical disabilities from age 5 to age 21 (and to a maximum allowable age in accordance with Iowa Code section 256B.8). The applicant must present evidence of having completed the following program requirements.

*a. to h. No change.*

**14.2(6) *K-8 mildly disabled endorsement.*** This endorsement will sunset July 1, 2019. This endorsement authorizes instruction to mildly disabled children who require special education program adaptations while assigned to a regular classroom for basic instructional purposes, or mildly disabled students placed in a special education ~~class~~ classroom who receive part of their instruction in a regular classroom, or mildly disabled students requiring specially designed instruction while assigned to a regular classroom for basic instructional purposes. To fulfill the requirements for this endorsement, the applicant must:

*a.* Hold a regular education instruction endorsement at the elementary level. For the elementary level, this is the general elementary classroom endorsement.

*b.* Hold one of the following endorsements at the elementary level: learning disabilities, mild to moderate intellectual disabilities, behavioral disorders, multicategorical resource room or multicategorical-special class with integration.

**14.2(7) *5-12 mildly disabled endorsement.*** This endorsement will sunset July 1, 2019. This endorsement authorizes instruction to mildly disabled children who require special education program adaptations while assigned to a regular classroom for basic instructional purposes, or mildly disabled students placed in a special education class who receive part of their instruction in a regular classroom, or mildly disabled students requiring specially designed instruction while assigned to a regular classroom for basic instructional purposes. To fulfill the requirements for this endorsement, the applicant must:

*a.* Hold a regular education instruction endorsement at the secondary level (grades 5-12).

*b.* Hold one of the following endorsements at the secondary level: learning disabilities, mild to moderate intellectual disabilities, behavioral disorders, multicategorical resource room or multicategorical-special class with integration.

NOTE: These endorsements are designed for programs serving primarily mildly disabled students; the sensory impaired are not included as “mildly disabled.”

ITEM 2. Adopt the following **new** subrules 14.2(10) and 14.2(11):

**14.2(10) *K-12 special education.*** This endorsement authorizes instruction in all K-12 special education programs without regard to the instructional model for all students identified with disabilities, except students with visual or hearing impairments. The applicant must present evidence of having completed coursework to meet the following program requirements.

*a.* Foundations of special education. To include cultural and instructional characteristics of students with disabilities, current issues, special education law, individualized education plans, history of special education, inclusive practices, and Iowa service delivery models.

*b.* Assessment, diagnosis and evaluation. To include diagnostic, formative, and summative assessments (both general and alternate), adaptive behavior skills, data usage in program decision making, and interpretation of standardized assessment.

*c.* Methods for teaching general education core curriculum. To include one course each in methods for elementary math and literacy.

*d.* Academic methods and strategies. To include evidence-based models for providing instructional methodologies, adaptation, accommodation and intensive interventions of the K-12 general education curriculum for students with disabilities (including concepts reflected in the Iowa Core essential elements for individuals with significant intellectual disabilities). The methodology for remediation of literacy and math skills must be included.

## EDUCATIONAL EXAMINERS BOARD[282](cont'd)

*e.* Preparation in research-based assessment and intervention practices. To include applied behavior analysis (ABA), behavior intervention planning (BIP), cognitive behavioral strategies (e.g., CBM, rational emotive education), de-escalation techniques (e.g., Mandt, CPI), functional behavioral assessment (FBA), and positive behavior interventions and supports (PBIS), in order to increase or promote language and communication development; emotional and social health; positive social interaction, personal satisfaction, and self-determination; decision-making skills; and independent functioning at school and home and in the community.

*f.* Collaborative and transition partnerships. To include awareness of the services, networks, and organizations available including transitional support K-12; preparation in working with parents and families, community agencies, service providers, and support staff including paraeducators; strategies for working with general classroom teachers and knowledge of the collaborative and consultative roles of special education teachers in the integration of individuals with disabilities into the general curriculum and classroom; and special emphasis on transitions of students to postsecondary environments.

*g.* Assistive/instructional technology. To include preparation in the use of assistive and instructional technology to assist students with moderate to significant disabilities to access the core curriculum and address compensatory or individualized needs, including accessible instructional materials.

*h.* Student teaching across all grade levels (K-12) with students with disabilities.

**14.2(11) *Special education specializations.*** Specializations allow the applicant to demonstrate expanded knowledge and skills with specific disability categories. The following specializations are not endorsements and are not required for specific assignments, but may be used by local school districts and nonpublic schools in specific settings. Specializations may be added to a teaching license by the completion of an additional 15 credit hours dedicated to the specialization beyond the special education endorsement requirements.

*a.* Intellectual disabilities: Fifteen credit hours of coursework dedicated to characteristics, instructional methodology, assessment, and transition of K-12 students with intellectual disabilities.

*b.* Autism spectrum disorders: Fifteen credit hours of coursework dedicated to characteristics, instructional methodology, assessment, and transition of K-12 students with autism spectrum disorders.

*c.* Behavioral/emotional disorders: Fifteen credit hours of coursework dedicated to characteristics, instructional methodology, assessment, and transition of K-12 students with behavior/emotional disorders.

*d.* Multiple disabilities: Fifteen credit hours of coursework dedicated to characteristics, instructional methodology, assessment, and transition of K-12 students with multiple disabilities.

*e.* Physical disabilities: Fifteen credit hours of coursework dedicated to characteristics, instructional methodology, assessment, and transition of K-12 students with physical disabilities.

**ARC 1604C**

**EDUCATIONAL EXAMINERS BOARD[282]**

**Notice of Intended Action**

**Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”**

**Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.**

Pursuant to the authority of Iowa Code section 272.2(1)“a,” the Board of Educational Examiners hereby gives Notice of Intended Action to amend Chapter 22, “Authorizations,” Iowa Administrative Code.

The Board of Educational Examiners has adopted rules for a preliminary native language teaching authorization, which is valid for five years while candidates complete basic pedagogy courses. After that time, candidates must convert the preliminary native language teaching authorization to a native language

## EDUCATIONAL EXAMINERS BOARD[282](cont'd)

teaching authorization, which is established in proposed rule 282—22.6(272). The authorization would also be available to fully licensed teachers who are native speakers of a foreign language.

Any interested person may make written comments or suggestions on the proposed amendments before 4 p.m. on Friday, September 26, 2014. Written comments and suggestions should be addressed to Kim Cunningham, Board Secretary, Board of Educational Examiners, at the address below, or sent by e-mail to [kim.cunningham@iowa.gov](mailto:kim.cunningham@iowa.gov), or by fax to (515)281-7669.

Any interested party or persons may present their views either orally or in writing at the public hearing that will be held Wednesday, September 24, 2014, at 1 p.m. in the State Board Room, Second Floor, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa.

At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendments. Persons who wish to make oral presentations at the public hearing may contact the Executive Director, Board of Educational Examiners, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa 50319-0147, or at (515)281-5849, prior to the date of the public hearing.

Any person who intends to attend the public hearing and requires special accommodations for specific needs, such as a sign language interpreter, should contact the office of the Executive Director at (515)281-5849.

These amendments are subject to waiver pursuant to 282—Chapter 6.

After analysis and review of this rule making, there is no anticipated impact on jobs.

These amendments are intended to implement Iowa Code section 272.2(1)“a.”

The following amendments are proposed.

ITEM 1. Renumber rules **282—22.6(272)** and **282—22.7(272)** as **282—22.7(272)** and **282—22.8(272)**.

ITEM 2. Adopt the following **new** rule 282—22.6(272):

**282—22.6(272) Native language teaching authorization.**

**22.6(1) Authorization.** The native language teaching authorization allows an individual to teach the individual’s native language as a foreign language in grades K-8 or grades 5-12.

**22.6(2) Application process.** Any person interested in the native language teaching authorization shall submit an application to the board of educational examiners for an evaluation. Application materials are available from the office of the board of educational examiners online at <http://www.boee.iowa.gov/>.

**22.6(3) Requirements.** Applicants must:

*a.* Hold a preliminary native language teaching authorization and meet the conversion requirements for the native language teaching authorization, or

*b.* Hold an Iowa teaching license and provide verification of successfully passing the Iowa-mandated assessment(s) by meeting the minimum score set by the Iowa department of education. The cut score may not be waived by the board. Applicants who hold an Iowa teaching license must also obtain a recommendation from a school district administrator verifying that the school district wishes to hire the applicant. Before the applicant is hired, the school district administrator must verify that a diligent search was completed to hire a fully licensed teacher with the proper endorsement for the position.

**22.6(4) Validity.** This authorization is valid for five years. No Class B licenses may be issued to an applicant holding the native language teaching authorization unless a teaching license is additionally obtained. No additional endorsement areas may be added to the native language teaching authorization.

**22.6(5) Renewal.**

*a.* Applicants must meet the renewal requirements set forth in rule 282—20.3(272) and 282—subrule 20.5(2).

*b.* A one-year extension may be issued if all requirements for the renewal of the native language teaching authorization have not been met. This one-year extension is not renewable.

**22.6(6) Revocation and suspension.** Criteria of professional practice and rules of the board of educational examiners shall be applicable to the holders of the native language teaching authorization.

## EDUCATIONAL EXAMINERS BOARD[282](cont'd)

If a school district hires an applicant without the proper licensure or endorsement, a complaint may be filed.

**ARC 1603C****EDUCATIONAL EXAMINERS BOARD[282]****Notice of Intended Action**

**Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”**

**Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.**

Pursuant to the authority of Iowa Code section 272.2(1)“a,” the Board of Educational Examiners hereby gives Notice of Intended Action to amend Chapter 22, “Authorizations,” Iowa Administrative Code.

The Board of Educational Examiners has recently considered the issue of licensure of Montessori educators in Iowa. Most Montessori programs in the state are independently operated, while others are part of a larger school district. For Montessori educators who are working in independently accredited schools, the proposed amendment will create an authorization that will allow recognition of specialized Montessori training and coverage of these employees under the Board of Educational Examiners’ Code of Professional Conduct and Ethics.

Any interested person may make written comments or suggestions on the proposed amendment before 4 p.m. on Friday, September 26, 2014. Written comments and suggestions should be addressed to Kim Cunningham, Board Secretary, Board of Educational Examiners, at the address below, or sent by e-mail to [kim.cunningham@iowa.gov](mailto:kim.cunningham@iowa.gov), or by fax to (515)281-7669.

Any interested party or persons may present their views either orally or in writing at the public hearing that will be held Wednesday, September 24, 2014, at 1 p.m. in the State Board Room, Second Floor, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa.

At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendment. Persons who wish to make oral presentations at the public hearing may contact the Executive Director, Board of Educational Examiners, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa 50319-0147, or at (515)281-5849, prior to the date of the public hearing.

Any person who intends to attend the public hearing and requires special accommodations for specific needs, such as a sign language interpreter, should contact the office of the Executive Director at (515)281-5849.

This amendment is subject to waiver pursuant to 282—Chapter 6.

After analysis and review of this rule making, there is no anticipated impact on jobs.

This amendment is intended to implement Iowa Code section 272.2(1)“a.”

The following amendment is proposed.

Adopt the following **new** rule 282—22.9(272):

**282—22.9(272) Montessori authorization.**

**22.9(1) Authorization.** The Montessori authorization is provided to educators working in educational settings accredited by the American Montessori Society.

**22.9(2) Application process.** Any person interested in the Montessori authorization shall submit an application to the board of educational examiners for an evaluation. Application materials are available from the office of the board of educational examiners online at <http://www.boee.iowa.gov>.

**22.9(3) Requirements.**

*a.* The applicant must have completed a baccalaureate degree.

## EDUCATIONAL EXAMINERS BOARD[282](cont'd)

*b.* Iowa division of criminal investigation background check. The applicant must have successfully completed an Iowa division of criminal investigation background check. The background check fee will be assessed to the applicant.

*c.* National criminal history background check. The applicant must have successfully completed a national criminal history background check. The background check fee will be assessed to the applicant.

*d.* The applicant must complete the required Montessori training leading to a full credential issued by the American Montessori Society.

*e.* The applicant must complete code of professional conduct and ethics training approved by the board of educational examiners.

**22.9(4) *Validity.*** This authorization is valid for five years. No Class B or administrative decision license may be issued to an applicant holding the Montessori authorization unless a teaching license is additionally obtained. No additional endorsement areas may be added to the Montessori authorization.

**22.9(5) *Renewal.***

*a.* Applicants must meet the renewal requirements set forth in rule 282—20.3(272) and 282—subrule 20.5(2).

*b.* A one-year extension may be issued if all requirements for the renewal of the Montessori authorization have not been met. This one-year extension is not renewable.

**22.9(6) *Revocation and suspension.*** Criteria of professional practice and rules of the board of educational examiners shall be applicable to the holders of the Montessori authorization.

## ARC 1605C

### EDUCATIONAL EXAMINERS BOARD[282]

#### Notice of Intended Action

**Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”**

**Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.**

Pursuant to the authority of Iowa Code section 272.2(1)“a,” the Board of Educational Examiners hereby gives Notice of Intended Action to amend Chapter 22, “Authorizations,” Iowa Administrative Code.

The proposed amendment would allow an individual with a degree in athletic administration or a related field to serve in the role of an activities director if the individual meets the requirements for an activities administration authorization. Currently, an individual must have a teaching or administrative license to hold this position.

Any interested person may make written comments or suggestions on the proposed amendment before 4 p.m. on Friday, September 26, 2014. Written comments and suggestions should be addressed to Kim Cunningham, Board Secretary, Board of Educational Examiners, at the address below, or sent by e-mail to [kim.cunningham@iowa.gov](mailto:kim.cunningham@iowa.gov), or by fax to (515)281-7669.

Any interested party or persons may present their views either orally or in writing at the public hearing that will be held Wednesday, September 24, 2014, at 1 p.m. in the State Board Room, Second Floor, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa.

At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendment. Persons who wish to make oral presentations at the public hearing may contact the Executive Director, Board of Educational Examiners, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa 50319-0147, or at (515)281-5849, prior to the date of the public hearing.

Any person who intends to attend the public hearing and requires special accommodations for specific needs, such as a sign language interpreter, should contact the office of the Executive Director at (515)281-5849.

## EDUCATIONAL EXAMINERS BOARD[282](cont'd)

This amendment is subject to waiver pursuant to 282—Chapter 6.

After analysis and review of this rule making, there is no anticipated impact on jobs.

This amendment is intended to implement Iowa Code section 272.2(1)“a.”

The following amendment is proposed.

Adopt the following new rule 282—22.10(272):

**282—22.10(272) Activities administration authorization.** An activities administration authorization allows an individual to administer any pupil activity program in a K-12 school setting.

**22.10(1) Application process.** Any person interested in the activities administration authorization shall submit an application and records of credit to the board of educational examiners for an evaluation of the required courses or contact hours. Application materials are available from the office of the board of educational examiners online at <http://www.boee.iowa.gov>.

*a. Requirements.* Applicants for the activities administration authorization shall meet the following requirements:

(1) Degree. A baccalaureate degree or higher in athletic administration or related field from a regionally accredited institution is required.

(2) Credit hours. Applicants must complete credit hours or courses offered by the Leadership Training Institute (LTI) from the National Interscholastic Athletic Administrators Association in the following areas:

1. Successful completion of 1 semester credit hour or LTI course relating to knowledge and understanding of risk management, Title IX, sexual harassment, hazing, Americans with Disabilities Act (ADA), and employment law as they pertain to the role of the activities administrator.

2. Successful completion of 1 semester credit hour or LTI course relating to knowledge and understanding of activities administration foundations including philosophy, leadership, professional programs and activities administration principles, strategies and methods.

3. Successful completion of 1 semester credit hour or LTI course relating to knowledge and understanding of the role of the activities director in supporting and developing sports medicine programs, management of athletic player equipment, concussion assessment and proper fitting of athletic protective equipment, and sports field safety.

4. Successful completion of 1 semester credit hour or LTI course relating to knowledge and understanding of the techniques and theory of coaching concepts and strategies for interscholastic budget and concepts and strategies for interscholastic fundraising.

5. Successful completion of 1 semester credit hour or LTI course, approved by the board, relating to the assessment and evaluation of interscholastic athletic programs and personnel, dealing with challenging personalities, and administration of professional growth programs for interscholastic personnel.

6. Successful completion of the concussion training approved by the Iowa High School Athletic Association or Iowa Girls High School Athletic Union.

*b. Minimum age.* Applicants must have attained a minimum age of 21 years.

*c. Iowa division of criminal investigation background check.* Applicants must have successfully completed an Iowa division of criminal investigation background check. The background check fee will be assessed to the applicant.

*d. National criminal history background check.* Applicants must have successfully completed a national criminal history background check. The background check fee will be assessed to the applicant.

**22.10(2) Validity.** The activities administration authorization shall be valid for five years.

**22.10(3) Renewal.**

*a.* The authorization may be renewed upon application and verification of successful completion of the following renewal activities:

(1) Applicants for renewal of an activities administration authorization must complete one of the following professional development options:

1. Document attendance at one state IHSADA convention and one LTI course relating to the knowledge and understanding of professional ethics and legal responsibilities of activities administrators.

## EDUCATIONAL EXAMINERS BOARD[282](cont'd)

2. Complete three LTI courses.
  3. Complete 2 semester hours of college credit from a regionally accredited institution.
  4. Complete 2 licensure renewal credits from an approved provider.
- (2) Applicants for renewal of an activities authorization must complete child and dependent adult abuse training as stated in 282—subrule 20.3(4).
- b.* A one-year extension of the applicant's activities administration authorization may be issued if all requirements for the renewal of the activities administrator authorization have not been met. The one-year extension is nonrenewable.

**22.10(4) Revocation and suspension.** Criteria of professional practice and rules of the board of educational examiners shall be applicable to the holders of the activities administration authorization.

**ARC 1598C****EDUCATION DEPARTMENT[281]****Notice of Intended Action**

**Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”**

**Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.**

Pursuant to the authority of Iowa Code section 256.7(5), the State Board of Education hereby proposes to adopt new Chapter 48, “Statewide Work-Based Learning Intermediary Network,” Iowa Administrative Code.

This chapter establishes a statewide work-based learning intermediary network to prepare students for the workforce by connecting business and the education system and offering relevant work-based learning opportunities to students and teachers.

An agencywide waiver provision is provided in 281—Chapter 4.

Interested individuals may make written comments on the proposed rules until 4:30 p.m. on September 23, 2014. Comments on the proposed rules should be directed to Jeremy Varner, Iowa Department of Education, Second Floor, Grimes State Office Building, Des Moines, Iowa 50319-0146; telephone (515)281-8260; e-mail [jeremy.varner@iowa.gov](mailto:jeremy.varner@iowa.gov); or fax (515)242-5988.

A public hearing will be held on September 23, 2014, from 9 to 10 a.m. in the State Board Room, Second Floor, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa, at which time persons may present their views either orally or in writing. Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should advise the Department of Education of their specific needs by calling (515)281-5295.

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

These rules are intended to implement Iowa Code section 256.40.

The following amendment is proposed.

Adopt the following **new** 281—Chapter 48:

## CHAPTER 48

## STATEWIDE WORK-BASED LEARNING INTERMEDIARY NETWORK

**281—48.1(256) Purpose.** The statewide work-based learning intermediary network is established to prepare students for the workforce by connecting business and the education system and offering relevant, work-based learning activities to students and teachers.

**281—48.2(256) Definitions.** For purposes of this chapter, the following definitions shall apply:

## EDUCATION DEPARTMENT[281](cont'd)

“*Core services*” means services related to work-based learning including, but not limited to, student job shadowing, student internships, and teacher or student tours.

“*Department*” means the Iowa department of education.

“*Region*” means a community college region.

“*Regional work-based learning intermediary network*” means the entity responsible for providing the services defined in subrule 48.4(1) to students in a region.

“*Targeted industries*” means those industries identified pursuant to Iowa Code section 15.102, including advanced manufacturing, biosciences, and information technology.

“*Work-based learning*” means planned and supervised connections of classroom, laboratory and work experiences that prepare students for current and future careers.

“*Work-based learning plan*” means the regional work-based learning intermediary network’s annual grant application.

**281—48.3(256) Statewide work-based learning intermediary network.** The statewide work-based learning intermediary network program is established by the department and shall be administered by the department through the division of community colleges.

**48.3(1) Statewide work-based learning intermediary network fund.** A separate, statewide work-based learning intermediary network fund is created in the state treasury under the control of the department pursuant to Iowa Code section 256.40(1).

*a.* Moneys deposited in the statewide work-based learning intermediary network fund established under Iowa Code section 256.40(1) shall be distributed annually to each region for the implementation of the work-based learning plan pursuant to Iowa Code section 256.40(7).

*b.* If the balance in the statewide work-based learning intermediary network fund on July 1 of a fiscal year is \$1.5 million or less, the department shall distribute moneys in the fund to the regional work-based learning intermediary networks or consortium of regions on a competitive basis. If the balance in the statewide work-based learning intermediary network fund on July 1 of a fiscal year is greater than \$1.5 million, the department shall distribute \$100,000 to each region and distribute the remaining moneys pursuant to the state aid distribution formula established in Iowa Code section 260C.18C.

**48.3(2) Steering committee.** The department shall establish and facilitate a steering committee comprised of representatives from the department of workforce development, the economic development authority, community colleges, institutions under the control of the state board of regents, accredited private institutions, area education agencies, school districts, and business and industry including, but not limited to, construction trade industry professionals. The steering committee shall:

*a.* Make recommendations to the department regarding the development and implementation of the statewide work-based learning intermediary network.

*b.* Develop a design for a statewide network comprised of 15 regional work-based learning intermediary networks aligned with community college boundaries. The design shall include network specifications, strategic functions, and desired outcomes.

*c.* Recommend program parameters and reporting requirements to the department.

**48.3(3) Providers.** No more than one entity from each region will be designated as the regional work-based learning intermediary network. A consortium of entities may collaborate to form a single work-based learning intermediary network in a region.

**281—48.4(256) Regional work-based learning intermediary network.**

**48.4(1)** A regional work-based learning intermediary network shall prepare students for the workforce by connecting businesses and the education system and shall offer relevant, work-based learning activities to students and teachers within the region. The network shall:

*a.* Conduct a needs assessment in collaboration with school districts within the region to inform the development of core services. Evidence that a needs assessment was conducted shall be maintained and made available upon request by the department.

*b.* Provide core services as defined in rule 281—48.2(256).

## EDUCATION DEPARTMENT[281](cont'd)

*c.* Prepare students to make informed postsecondary education and career decisions. Services shall be integrated with other career exploration-related activities such as the student core curriculum plan and the career information and decision-making system developed and administered pursuant to Iowa Code section 279.61, where appropriate.

*d.* Build and sustain relationships between employers and local youth, the education system, and the community through communication and coordination.

*e.* Connect students to local career opportunities.

*f.* Provide a one-stop contact point for information useful to both educators and employers, including information on internships, job shadowing experiences, and other core services for students, particularly related to science, technology, engineering, or mathematics occupations, occupations related to critical infrastructure and commercial and residential construction, or targeted industries.

*g.* Facilitate the attainment of portable, industry-recognized credentials such as the National Career Readiness Certificate, where appropriate.

**48.4(2) *Work-based learning plan.*** Each network or consortium of networks shall annually submit a work-based learning plan to the department. Each plan shall detail how the intermediary network will provide core services to all school districts within the region and support the integration of job shadowing and other work-based learning activities into secondary career and technical education programs.

**48.4(3) *Funding.*** All funds are to be used to develop or expand work-based learning opportunities within the intermediary network region.

*a. Match.* Of the funds received pursuant to subrule 48.3(1), each regional work-based learning intermediary network shall contribute a match of resources equal to 25 percent pursuant to Iowa Code section 256.40(9). The financial resources used to provide the match may include private donations, in-kind contributions, or public moneys other than the moneys received pursuant to subrule 48.3(1).

*b. Staffing.* Funds may be used to support personnel responsible for the implementation of the intermediary network program components outlined under subrule 48.3(1).

**48.4(4) *Collaboration.*** Regional work-based learning intermediary networks shall work collaboratively with the statewide intermediary network and stakeholders. Evidence of collaboration shall be documented in each region's annual report.

**48.4(5) *Advisory council.*** Each regional work-based learning intermediary network shall establish an advisory council consisting of intermediary network stakeholders from business and industry representatives, including construction trade industry professionals, to provide guidance and assistance in developing the intermediary network's work-based learning plan. Advisory councils shall meet at least annually. Meeting minutes shall be maintained and be made available upon request by the department. The advisory council shall be subject to open meetings laws under Iowa Code chapter 21.

**48.4(6) *Annual report.*** Each regional work-based learning intermediary network shall submit an annual report to the department in a manner prescribed by the department. The report shall include, but not be limited to, performance metrics prescribed by the department and a summary of financial expenses.

These rules are intended to implement Iowa Code section 256.40.

## ARC 1618C

## HUMAN SERVICES DEPARTMENT[441]

## Notice of Intended Action

**Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”**

**Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.**

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services proposes to amend Chapter 74, “Iowa Health and Wellness Plan,” and Chapter 77, “Conditions of Participation for Providers of Medical and Remedial Care,” Iowa Administrative Code.

On January 1, 2014, the Iowa Health and Wellness Plan began providing medical assistance to low-income Iowans between the ages of 19 and 64 who meet the following eligibility criteria: income not exceeding 133 percent of the Federal Poverty Level (FPL) for family size, not eligible for any other full Medicaid group or Medicare, not pregnant, and dependent children of the applicant or member covered by minimum essential coverage.

These amendments clarify the policies and processes of the program. Amendments include: how the Healthy Behaviors Program works, how premiums will be charged, the medically exempt determination process, the appeals process, and the standards for Accountable Care Organizations to become Medicaid providers.

Any interested person may make written comments on the proposed amendments on or before September 9, 2014. Comments should be directed to Harry Rossander, Bureau of Policy Coordination, Department of Human Services, Hoover State Office Building, Fifth Floor, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by e-mail to [policyanalysis@dhs.state.ia.us](mailto:policyanalysis@dhs.state.ia.us).

These amendments do not provide for waivers in specified situations because requests for the waiver of any rule may be submitted under the Department’s general rule on exceptions at 441—1.8(17A,217). After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code section 249A.4.

The following amendments are proposed.

ITEM 1. Amend the following definitions in rule **441—74.1(249A,85GA,SF446)**:

“*Accountable care organization*” means a risk-bearing, integrated health care organization characterized by a payment and care delivery model that ties provider reimbursement to quality metrics and reductions in the total cost of care for an attributed population of patients. An accountable care organization shall be qualified pursuant to rule 441—77.51(249A).

“*Enrollment period*” means the 12-month period for which Iowa Health and Wellness plan eligibility is ~~initially~~ established.

“*Essential health benefits*” means the essential health benefits defined by the Secretary of the United States Department of Health and Human Services pursuant to Section 1302(b) of the Patient Protection and Affordable Care Act, Public Law 111-148 at 42 U.S.C. § 18022.

ITEM 2. Rescind the definition of “Exempt individuals” in rule **441—74.1(249A,85GA,SF446)**.

ITEM 3. Adopt the following **new** definitions in rule **441—74.1(249A,85GA,SF446)**:

“*Caretaker relative*” means a relative listed in 441—subrule 75.55(1).

“*Medical home*” means a provider contracted with the department through Form 470-5177, Agreement for Participation as a Patient Manager in the Iowa Health and Wellness Plan (Wellness Plan).

“*Medically exempt individual*” means an individual exempt from mandatory enrollment in an alternative benefit plan pursuant to 42 CFR § 440.315 as amended on July 15, 2013.

## HUMAN SERVICES DEPARTMENT[441](cont'd)

ITEM 4. Amend subrule 74.2(2) as follows:

**74.2(2) *Parents or caretakers of dependent children.*** All ~~dependent~~ children under the age of 21 living with a parent or other caretaker relative who will be claimed as a dependent by the parent or caretaker relative for state or federal income tax purposes must be enrolled in Medicaid, in the Children's Health Insurance Program (CHIP), or in other minimum essential coverage as a condition of the parent's or other caretaker relative's eligibility for Iowa Health and Wellness Plan benefits.

ITEM 5. Amend rule 441—74.5(249A,85GA,SF446) as follows:

**441—74.5(249A,85GA,SF446) Enrollment period.**

**74.5(1) *Effective dates of eligibility.*** Iowa Health and Wellness Plan eligibility shall be effective on the first day of the month ~~following the month~~ of application or the first day of the month all eligibility requirements are met, whichever is later. The enrollment period shall continue for 12 consecutive months unless the member is disenrolled in accordance with the provisions of rule 441—74.8(249A,85GA,SF446).

**74.5(2) *Retroactive enrollment.*** ~~Care provided before enrollment. No payment shall be made for medical care received before the effective date of enrollment.~~ Medical assistance shall be available for all or any of the three months preceding the month in which an application is filed in accordance with 441—subrule 76.13(2).

**74.5(3) *Reinstatement.*** Enrollment for the Iowa Health and Wellness Plan may be reinstated without a new application in accordance with 441—subrule 76.12(2).

**74.5(4) *Presumptive eligibility.*** The enrollment period of 12 consecutive months shall not apply to individuals temporarily enrolled in Medicaid based on a presumptive eligibility determination by a qualified entity in accordance with rules 441—76.7(249A) and 441—76.13(249A).

ITEM 6. Amend rule 441—74.6(249A,85GA,SF446) as follows:

**441—74.6(249A,85GA,SF446) Reporting changes.**

**74.6(1) *Reporting requirements.*** As a condition of ongoing enrollment, a member shall report any of the following changes no later than ten calendar days after the change takes place:

- a. The member enters a nonmedical institution, including but not limited to a penal institution.
- b. The member abandons Iowa residency.
- c. The member turns 65.
- d. The member becomes entitled or enrolled in Medicare Part A or Part B or both.
- e. ~~The member's dependent child loses minimum essential coverage.~~ A child under the age of 21 living with the member loses minimum essential coverage, if the member is the child's parent or other caretaker relative and will claim the child as a dependent for state or federal income tax purposes.
- f. The member's countable income increases in a manner that must be reported according to the requirements of rule 441—76.15(249A).
- g. The member is confirmed pregnant.

**74.6(2) *Untimely report.*** When a change is not timely reported as required by this rule, any program expenditures for care or services provided when the member was not eligible shall be considered an overpayment and be subject to recovery from the member in accordance with rule 441—75.28(249A) and 441—Chapter 11. Program expenditures may include, but are not limited to, premiums and capitation payments.

**74.6(3)** No change.

ITEM 7. Amend rule 441—74.8(249A,85GA,SF446) as follows:

**441—74.8(249A,85GA,SF446) Terminating enrollment.** Iowa Health and Wellness Plan enrollment shall end when any of the following ~~occur~~ occurs:

1. to 7. No change.

## HUMAN SERVICES DEPARTMENT[441](cont'd)

8. ~~The member's dependent child loses minimum essential coverage. A child under the age of 21 living with the member loses minimum essential coverage, if the member is the child's parent or other caretaker relative and will claim the child as a dependent for state or federal income tax purposes.~~

9. No change.

10. The member ~~becomes~~ reports that she is pregnant.

11. No change.

12. The member does not pay monthly contributions as required by subrule 74.11(2).

ITEM 8. Amend rule 441—74.10(249A,85GA,SF446) as follows:

**441—74.10(249A,85GA,SF446) Right to appeal.**

74.10(1) Decisions and actions by the department regarding eligibility or services provided under this chapter may be appealed pursuant to 441—Chapter 7. Coverage decisions and actions by participating marketplace choice plans shall be appealed through the plans' grievance and appeal processes. A provider requesting a hearing on behalf of a member must have the prior express written consent of the member or the member's lawfully appointed guardian. Notwithstanding any contrary provision in 441—Chapter 7, no hearing will be granted unless the provider submits a document providing the member's consent to the request for a state fair hearing. The document must specifically inform the member that protected health information (PHI) may be discussed at the hearing and may be made public in the course of the hearing and subsequent administrative and judicial proceedings. The document must contain language that indicates the member's knowledge of the potential for PHI to become public and that the member knowingly, voluntarily, and intelligently consents to the provider's bringing the state fair hearing on the member's behalf.

74.10(2) Members will not be entitled to an appeal hearing if the sole basis for denying or limiting services is discontinuance of the program pursuant to rule 441—74.14(249A,85GA,SF446).

74.10(3) Coverage decisions and actions by participating marketplace choice plans must first be appealed through the plan's internal appeal process and through the external review process pursuant to Iowa Administrative Code 191—Chapter 76. After a member has exhausted the member's rights under the external review process, the member may appeal a decision or action pursuant to 441—Chapter 7. Appeal requests made pursuant to 441—Chapter 7 shall result in a change from benefits and service delivery under subrule 74.12(2) to benefits and service delivery under subrule 74.12(1). Benefits and service delivery under subrule 74.12(1) shall remain in effect for the remainder of the member's eligibility period.

ITEM 9. Amend rule 441—74.11(249A,85GA,SF446) as follows:

**441—74.11(249A,85GA,SF446) Financial participation.**

74.11(1) Copayment. Payment for nonemergency use of a hospital emergency department shall be subject to a ~~\$10~~ an \$8 copayment by the member, which shall be subtracted from the Iowa Health and Wellness Plan payment otherwise due to the provider. This copayment will be waived during ~~the first year of the Iowa Health and Wellness Plan~~ calendar year 2014.

74.11(2) Monthly contributions. ~~Reserved.~~ Members enrolled in the Iowa Health and Wellness Plan with household income at or above 50 percent of the federal poverty level are required to pay monthly contributions pursuant to this rule.

a. Monthly contribution amount. The monthly contribution amount for each member is based on the countable income of the member's household, determined pursuant to rule 441—75.70(249A), as a percentage of the federal poverty level (FPL) for the household. Monthly contribution amounts are as follows:

(1) For a member with household income between 50 and 100 percent of the FPL, \$5;

(2) For a member with household income above 100 percent of the FPL, \$10.

b. Waiver during the first year of enrollment. The monthly contribution will be waived during the member's first 12 months of continuous enrollment.

## HUMAN SERVICES DEPARTMENT[441](cont'd)

c. Monthly contribution exemptions. A member shall be exempt from monthly contribution payments when any of the following circumstances apply:

(1) The member completed healthy behaviors pursuant to subrule 74.11(4) in the previous enrollment period.

(2) The member is determined to be a medically exempt individual pursuant to subrule 74.12(3).

(3) The member has access to cost-effective, employer-sponsored coverage and is enrolled in the health insurance premium payment program pursuant to 441—Chapter 75.

(4) The member is exempt from premiums pursuant to 42 CFR 447.56(a)(1)(x) as an Indian who is eligible to receive or has received an item or service furnished by an Indian health care provider or through referral under contract health services.

(5) The member claims a hardship exemption indicating that payment of the monthly contribution will be a financial hardship. The member may claim a hardship exemption by telephoning the call center designated by the department or by submitting a written statement to the address designated by the department. The member's hardship exemption must be received or postmarked within five working days after the monthly contribution due date. If the hardship exemption request is not made in a timely manner, the exemption shall not be granted.

d. Billing and payment. Form XXX-XXX, Iowa Health and Wellness Plan Billing Statement, shall be used for billing and collection.

(1) Method of payment. Members shall submit contribution payments to the following address: Iowa Medicaid Enterprise, Iowa Health and Wellness Plan Monthly Contributions, P.O. Box XXXXX, Des Moines, Iowa XXXXX.

(2) Due date. When the department notifies a member of the amount of the monthly contribution, the member shall pay any monthly contributions due in accordance with the following:

1. The monthly contribution for each month is due on the last calendar day of the month that the monthly contribution is to cover.

2. If the last calendar day falls on a weekend or state or federal holiday, payment is due on the first working day following the weekend or holiday.

3. Monthly contribution payments must be received or postmarked by the due date.

(3) Application of payment. The department shall apply monthly contributions payments received to the oldest unpaid month in the current enrollment period. When monthly contributions for all months in the enrollment period have been paid, the department shall hold any excess and apply it to any months for which eligibility is subsequently established.

e. Failure to pay monthly contributions.

(1) An Iowa wellness plan member who fails to pay the assessed monthly contributions and who does not qualify for a monthly contribution exemption pursuant to subrule 74.11(2) shall owe the monthly contribution to the department as an unpaid premium subject to recovery in accordance with rule 441—75.28(249A). A member shall have no less than 90 days from the due date to pay any unpaid monthly contribution before the unpaid amount shall be subject to recovery.

(2) A marketplace choice plan member who fails to pay the assessed monthly contribution and who does not qualify for a monthly contribution exemption pursuant to subrule 74.11(2) shall have the member's eligibility terminated. In addition, the unpaid monthly contribution shall be subject to recovery in accordance with rule 441—75.28(249A) as an unpaid premium.

1. A member shall have no less than 90 days from the due date to pay any unpaid monthly contribution before eligibility will be terminated or the unpaid amount will be subject to recovery.

2. A member whose eligibility is terminated due to nonpayment of monthly contributions must reenroll for Medicaid benefits pursuant to 441—Chapter 76.

f. Refund of monthly contributions.

(1) Monthly contributions paid for any period shall be refunded if the member qualified for a monthly contribution exemption pursuant to paragraph 74.11(2) "c" or when a member's Iowa Health and Wellness Plan coverage is terminated for the following reasons:

1. The member is no longer eligible for coverage in the Iowa Health and Wellness Plan; or

2. The member dies.

## HUMAN SERVICES DEPARTMENT[441](cont'd)

(2) The amount of any refund shall be offset by any outstanding monthly contributions owed.

(3) The refund shall be paid within two calendar months.

74.11(3) Aggregate annual limits on copayments and monthly contributions. The total aggregate annual amount of copayments and monthly contributions for an individual shall not exceed 5 percent of the household's countable annual income determined pursuant to rule 441—75.70(249A).

74.11(4) Healthy behaviors. An Iowa Health and Wellness Plan member who completes a wellness examination and health risk assessment during any enrollment year shall have monthly contributions waived in the subsequent enrollment year.

a. A wellness examination must be performed by a medical provider and must assess a member's overall physical health consistent with standard clinical guidelines for preventive physical examinations and as defined by the department.

b. A health risk assessment must be one of the following:

(1) An "Assess My Health" assessment offered through the department;

(2) An assessment offered by a managed care plan through which the member is receiving Iowa Health and Wellness Plan benefits; or

(3) An assessment offered by a qualified health plan through which the member is receiving Iowa Health and Wellness Plan benefits.

ITEM 10. Amend rule 441—74.12(249A,85GA,SF446) as follows:

**441—74.12(249A,85GA,SF446) Benefits and service delivery.** Covered benefits and the service delivery method shall be determined by the member's countable income and health status.

**74.12(1) Iowa wellness plan services.** Iowa Health and Wellness Plan members with countable income that does not exceed 100 percent of the federal poverty level shall be enrolled in the Iowa wellness plan unless the member is determined by the department to be ~~an~~ a medically exempt individual. The department shall provide the member with a medical assistance eligibility card identifying the member as eligible for Iowa wellness plan services.

a. Covered Iowa wellness plan services are essential health benefits, all other benefits required pursuant to 42 U.S.C. § 1396u-7(b)(1)(B), including prescription drugs, and dental services consistent with 441—Chapter 78, and habilitation services consistent with rule 441—78.27(249A).

b. The Iowa Health and Wellness Plan wellness plan provider network shall include all providers enrolled in the medical assistance program, including all participating accountable care organizations.

c. Members enrolled in the Iowa wellness plan shall be subject to enrollment in managed care, other than PACE programs, pursuant to 441—Chapter 88. In addition to reimbursement for managed care pursuant to 441—Chapter 88, the department may provide care coordination fees, performance incentive payments, or shared savings arrangements for medical homes and accountable care organizations serving members enrolled in the Iowa Health and Wellness Plan wellness plan.

d. When the member does not choose a primary medical provider, the department shall assign the member to a primary medical provider in accordance with the Medicaid managed health care mandatory enrollment provisions specified in 441—subrule 88.3(7) for mandatory enrollment counties and in accordance with quality data available to the department.

e. Dental services shall be provided through a contract with one or more commercial dental plans. The department may restrict member access to those entities with which the department contracts. The dental plan or plans shall provide the member with a dental card identifying the member as eligible for dental services.

**74.12(2) Marketplace choice plan services.** Iowa Health and Wellness Plan members with countable income between 101 percent and 133 percent of the federal poverty level shall be enrolled in a marketplace choice plan unless the member is determined by the department to be ~~an~~ a medically exempt individual. Marketplace choice coverage shall be provided through designated qualified health plans available on the health insurance marketplace. Covered services not provided by the marketplace choice plan will be provided by the medical assistance program. Individuals who have been determined eligible for the marketplace choice plan, but who have not yet been enrolled in a marketplace choice

## HUMAN SERVICES DEPARTMENT[441](cont'd)

plan, shall receive fee-for-service coverage under the Iowa wellness plan until they choose or are assigned to a marketplace choice plan.

*a.* Upon enrollment, a member shall choose a qualified health plan from those designated by the department to provide coverage to ~~Iowa Health and Wellness Plan~~ marketplace choice plan members.

*b.* When the member does not select a qualified health plan pursuant to notice of the need to do so, the department will select a plan, enroll the member, and notify the member of the assigned plan.

*c.* The department shall pay premiums to designated qualified health plans participating on the health insurance marketplace to buy coverage for eligible ~~Iowa Health and Wellness Plan~~ marketplace choice plan members. The department shall begin payment of the member's premiums for the first month of enrollment ~~through the Iowa Health and Wellness Plan~~ in the qualified health plan. The qualified health plan shall provide the member with an insurance card identifying the member as an enrollee of the plan. The department shall provide the member with a medical assistance eligibility card ~~identifying the member as eligible for the marketplace choice plan~~ for covered medical services not provided by the qualified health plan.

*d.* Covered services are all benefits, including essential health benefits, provided by the designated qualified health plan on the health insurance marketplace, including prescription drugs. ~~Dental services shall be provided through a contract with a commercial dental plan with covered services consistent with 441—Chapter 78.~~ Services not covered by the qualified health plan, but covered pursuant to the marketplace choice 1115 waiver or the marketplace choice state plan will be covered by the Medicaid program.

*e.* Dental services shall be provided through a contract with one or more commercial dental plans with covered services consistent with 441—Chapter 78. The department may restrict member access to those entities with which the department contracts. The dental plan or plans shall provide the member with a dental card identifying the member as eligible for dental services.

**74.12(3) *Exempt Medically exempt individuals.*** An Iowa Health and Wellness Plan member who has been determined by the department to be ~~an~~ a medically exempt individual shall be given the choice of the benefits and service delivery method provided by the Iowa wellness plan or receiving benefits and services pursuant to 441—Chapter 78.

*a.* A member may attest to being a medically exempt individual by submitting a completed Form 470-5194.

*b.* A provider with a current National Provider Identifier number, an employee of the department of human services, a designee of the department of corrections, a qualified health plan, or a mental health and disability services region established pursuant to Iowa Code sections 331.388 to 331.399 may refer a member for a medically exempt individual determination by submitting a completed Form 470-5196, Medically Exempt Attestation and Referral Form.

*c.* Upon receipt of Form 470-5194 or 470-5196, the Iowa Medicaid enterprise shall determine whether the member qualifies as a medically exempt individual in accordance with 42 CFR § 440.315 as amended on July 15, 2013.

**74.12(4)** No change.

ITEM 11. Adopt the following **new** rule 441—77.51(249A):

**441—77.51(249A) Accountable care organizations.** Subject to the requirements of this rule, a designated provider may participate in the medical assistance program as an accountable care organization (ACO).

**77.51(1) *ACO qualifications.*** ACO entities must meet the following requirements for participation as an ACO:

*a.* An ACO must be a Medicaid-enrolled provider. An ACO must complete enrollment in accordance with rule 441—79.14(249A).

*b.* The ACO shall execute a provider participation agreement in accordance with rule 441—79.6(249A).

*c.* An ACO must complete Form 470-5264, Iowa Wellness Plan ACO Readiness Application. The department reserves the right to approve the application.

## HUMAN SERVICES DEPARTMENT[441](cont'd)

*d.* The department and ACO shall enter into an agreement on Form 470-5218, Iowa Medicaid Accountable Care Organization (ACO) Agreement. The ACO shall comply with all requirements as identified in Form 470-5218.

*e.* The department reserves the right to restrict ACO enrollment so that the mixture of enrolled ACOs best matches the needs of the Medicaid member population.

**77.51(2) Member selection.** Medicaid members eligible for services from providers attributed to an ACO shall be required to choose their providers in accordance with 441—subrules 88.3(2) and 88.3(7).

**ARC 1620C****HUMAN SERVICES DEPARTMENT[441]****Notice of Intended Action**

**Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”**

**Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.**

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services proposes to amend Chapter 78, “Amount, Duration and Scope of Medical and Remedial Services,” Iowa Administrative Code.

This amendment addresses requirements for prior authorization (PA) of high-technology radiology procedures to ensure appropriate uses of these more expensive diagnostic imaging tests. A PA requirement for these procedures was implemented by the Iowa Medicaid Enterprise (IME) in 2010. At that time, it was determined that a specific rule was not necessary, on the basis that existing PA rules provided authority for the additional requirement related to high-tech radiology procedures. However, it has now been determined that a specific rule is more appropriate. Complaints regarding the process or inappropriate decisions have largely diminished as providers have become more familiar with the process of seeking PA approvals for these high-technology radiology procedures.

Any interested person may make written comments on the proposed amendment on or before September 23, 2014. Comments should be directed to Harry Rossander, Bureau of Policy Coordination, Department of Human Services, Hoover State Office Building, Fifth Floor, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by e-mail to [policyanalysis@dhs.state.ia.us](mailto:policyanalysis@dhs.state.ia.us).

This amendment does not provide for waivers in specified situations because requests for the waiver of any rule may be submitted under the Department’s general rule on exceptions at 441—1.8(17A,217).

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

This amendment is intended to implement Iowa Code section 249A.4.

The following amendment is proposed.

Adopt the following **new** subrule 78.28(11):

**78.28(11)** High-technology radiology procedures.

*a.* Except as provided in paragraph 78.28(11)“*b*,” the following radiology procedures require prior approval:

- (1) Magnetic resonance imaging (MRIs);
- (2) Computed tomography (CTs), including combined abdomen and pelvis CT scans;
- (3) Computed tomographic angiographs (CTAs);
- (4) Positron emission tomography (PETs); and
- (5) Magnetic resonance angiography (MRAs).

*b.* Notwithstanding paragraph 78.28(11)“*a*,” prior authorization is not required when any of the following applies:

## HUMAN SERVICES DEPARTMENT[441](cont'd)

- (1) Radiology procedures are billed on a CMS 1500 claim for places of service “hospital inpatient” (POS 21) or “hospital emergency room” (POS 23), or on a UB04 claim with revenue code 45X;
- (2) The member has Medicare coverage;
- (3) The member received notice of retroactive Medicaid eligibility after receiving a radiology procedure at a time prior to the member’s receipt of such notice (see paragraph 78.28(11) “e”); or
- (4) A radiology procedure is ordered or requested by the department of human services, a state district court, law enforcement, or other similar entity for the purposes of a child abuse/neglect investigation, as documented by the provider.
  - c. Prior approval will be granted if the procedure requested meets the requirements of 441—subrule 79.9(2), based on diagnosis, symptoms, history of illness, course of treatment, and treatment plan, as documented by the provider requesting prior approval.
  - d. Required requests for prior approval of radiology procedures must be submitted through the online system operated by the department’s contractor for prior approval of high-technology radiology procedures.
  - e. Services are billed for members with retroactive eligibility.
    - (1) When a member has received notice of retroactive Medicaid eligibility after receiving a radiology procedure for a date of service prior to the member’s receipt of such notice and otherwise requiring prior approval pursuant to this rule, a retroactive authorization request must be submitted on Form 470-0829, Request for Prior Authorization, before any claim for payment is submitted.
    - (2) Payment will be authorized only if the prior approval criteria were met and the service was provided to the member prior to the retroactive eligibility notification, as documented by the provider requesting retroactive authorization.
    - (3) Retroactive authorizations will not be granted when sought for reasons other than a member’s retroactive Medicaid eligibility. Examples of such reasons include, but are not limited to, the following:
      1. The provider was unaware of the high-technology radiology prior authorization requirement.
      2. The provider was unaware that the member had current Medicaid eligibility or coverage.
      3. The provider forgot to complete the required prior authorization process.

**ARC 1617C****HUMAN SERVICES DEPARTMENT[441]****Notice of Intended Action**

**Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1) “b.”**

**Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.**

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services proposes to amend Chapter 79, “Other Policies Relating to Providers of Medical and Remedial Care,” Iowa Administrative Code.

These amendments will extend the primary care physician (PCP) rate increase required by the Health Care and Education Reconciliation Act of 2010 (HCERA), Section 1202 (Public Law 111-152) (42 U.S.C. § 1396a(a)(13)(C)), that sunsets on December 31, 2014, and that allows qualified PCPs to receive the greater of the Medicare rate or Medicaid rate for a specified set of medical payment codes. These amendments will “freeze” the Medicare rate in effect in 2014. Qualified PCPs will be paid the greater of the annual Medicaid rate or the 2014 Medicare rate for the specified codes.

Any interested person may make written comments on the proposed amendments on or before September 23, 2014. Comments should be directed to Harry Rossander, Bureau of Policy Coordination, Department of Human Services, Hoover State Office Building, Fifth Floor, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by e-mail to [policyanalysis@dhs.state.ia.us](mailto:policyanalysis@dhs.state.ia.us).

## HUMAN SERVICES DEPARTMENT[441](cont'd)

These amendments do not provide for waivers in specified situations because requests for the waiver of any rule may be submitted under the Department's general rule on exceptions at 441—1.8(17A,217).

According to the Centers for Medicare and Medicaid Services, "the overall benefit of this rule is the expected increase in provider participation [in Medicaid] by primary care physicians resulting in better access to primary and preventive health services by Medicaid beneficiaries." 77 Fed. Reg. 66670 (Nov. 6, 2012). On that basis, there will continue to be a positive impact on private-sector jobs and employment opportunities for primary care physicians and associated personnel.

These amendments are intended to implement Iowa Code section 249A.4.

The following amendments are proposed.

ITEM 1. Amend subrule **79.1(2)**, "Physicians (doctors of medicine and osteopathy)" provider category, as follows:

Provider category	Basis of reimbursement	Upper limit
Physicians (doctors of medicine or osteopathy)	Fee schedule. See 79.1(7) "a"	Fee schedule in effect 6/30/13 plus 1%.
Anesthesia services	Fee schedule	Fee schedule in effect 6/30/13 plus 1%.
Physician-administered drugs	Fee schedule	Fee schedule in effect 6/30/13 plus 1%.
Qualified primary care services furnished in 2013 or 2014	See 79.1(7) "c"	Rate provided by 79.1(7) "c"

ITEM 2. Amend paragraph **79.1(7)"c"** as follows:

*c.* ~~Payment for primary care services furnished in 2013 or 2014.~~ To the extent required by 42 U.S.C. § 1396a(a)(13)(C), primary care services furnished in calendar ~~years~~ year 2013 or 2014 by a qualified primary care physician or under the supervision of a qualified primary care physician shall be paid as provided pursuant to subparagraphs (1) to (4) and (6) of this paragraph (79.1(7) "c"). Primary care services furnished on or after January 1, 2015, by a qualified primary care physician or under the supervision of a qualified primary care physician shall be paid as provided pursuant to subparagraphs (1) to (3), (5), and (7) of this paragraph (79.1(7) "c").

(1) to (3) No change.

(4) Primary care services rendered in calendar year 2013 or 2014. Primary care services rendered in calendar year 2013 or 2014 that are eligible for payment pursuant to this rule shall be paid at the greater of:

1. to 3. No change.

4. If there is no applicable rate under Medicare Part B, the rate specified in a fee schedule established and announced by the federal Centers for Medicare and Medicaid Services, pursuant to 42 CFR § 447.405(A)(a)(1).

(5) Primary care services rendered on or after January 1, 2015. Primary care services rendered on or after January 1, 2015, that are eligible for payment pursuant to this rule shall be paid at the greater of:

1. The otherwise applicable Iowa Medicaid rate;

2. The applicable rate under Medicare Part B in effect for services rendered on January 1, 2014;

3. The rate that would be applicable under Medicare Part B, in effect for services rendered on January 1, 2014, if the conversion factor under 42 U.S.C. § 1395w-4(d) were the conversion factor for 2009; or

4. If there is no applicable rate under Medicare Part B, the rate specified in a fee schedule established and announced by the federal Centers for Medicare and Medicaid Services, pursuant to 42 CFR § 447.405(a)(1), and in effect on June 30, 2014.

~~(5)~~ (6) Notwithstanding the foregoing provisions of this paragraph (79.1(7) "c"), payment for the administration of vaccines provided under the vaccines for children program in calendar ~~years~~ year 2013 or 2014 shall be limited to the lesser of:

1. The regional maximum administration fee under the vaccines for children program; or

## HUMAN SERVICES DEPARTMENT[441](cont'd)

2. The applicable Medicare fee schedule rate for HCPCS code 90460 (or, if higher, the Medicare fee schedule rate for HCPCS code 90460 that would apply if the conversion factor under 42 U.S.C. § 1395w-4(d) were the conversion factor for 2009).

(7) Notwithstanding the foregoing provisions of this paragraph (79.1(7)“c”), payment for the administration of vaccines provided under the Vaccines for Children Program on or after January 1, 2015, shall be the lesser of:

1. The regional maximum administration fee under the Vaccines for Children Program in effect on June 30, 2014; or

2. The applicable Medicare fee schedule rate in effect on June 30, 2014, for HCPCS code 90460 (or, if higher, the Medicare fee schedule rate for HCPCS code 90460 rate that would apply if the conversion factor under 42 U.S.C. § 1395w-4(d) were the conversion factor for 2009).

ARC 1619C

**HUMAN SERVICES DEPARTMENT[441]****Notice of Intended Action**

**Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”**

**Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.**

Pursuant to the authority of Iowa Code section 249A.4 and 2014 Iowa Acts, chapter 1140, sections 54 and 65, the Department of Human Services proposes to amend Chapter 79, “Other Policies Relating to Providers of Medical and Remedial Care,” Iowa Administrative Code.

These amendments address disproportionate share hospital (DSH) payments and require that only hospitals in Iowa, including children’s hospitals, may qualify for DSH payments. The amendments also remove the requirement that a children’s hospital must be a “voting” member of the National Association of Children’s Hospitals and Related Institutions and, in turn, require that a children’s hospital only be a member of this association.

Any interested person may make written comments on the proposed amendments on or before September 23, 2014. Comments should be directed to Harry Rossander, Bureau of Policy Coordination, Department of Human Services, Hoover State Office Building, Fifth Floor, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by e-mail to [policyanalysis@dhs.state.ia.us](mailto:policyanalysis@dhs.state.ia.us).

These amendments do not provide for waivers in specified situations because requests for the waiver of any rule may be submitted under the Department’s general rule on exceptions at 441—1.8(17A,217).

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

These amendments are intended to implement Iowa Code section 249A.4 and 2014 Iowa Acts, chapter 1140, section 54.

The following amendments are proposed.

ITEM 1. Amend paragraph **79.1(5)“a,”** definition of “Children’s hospitals,” as follows:

“*Children’s hospitals*” shall mean hospitals with inpatients predominantly under 18 years of age. For purposes of qualifying for disproportionate share payments from the graduate medical education and disproportionate share fund, a children’s hospital is defined as a duly licensed hospital that:

1. Either provides services predominantly to children under 18 years of age or includes a distinct area or areas that provide services predominantly to children under 18 years of age, and

2. Is a voting member of the National Association of Children’s Hospitals and Related Institutions for dates of service prior to October 1, 2014, or a member of the National Association of Children’s Hospitals and Related Institutions for dates of service on or after October 1, 2014.

## HUMAN SERVICES DEPARTMENT[441](cont'd)

ITEM 2. Amend subparagraph **79.1(5)“m”(2)** as follows:

(2) Hospitals that qualify for disproportionate share payment based on the definition established by their state's Medicaid agency for the calculation of the Medicaid inpatient utilization rate will be eligible to receive disproportionate share payments according to paragraph 79.1(5) “y<sub>2</sub>” for dates of service prior to October 1, 2014. Out-of-state hospitals do not qualify for disproportionate share payments for dates of service on or after October 1, 2014.

ITEM 3. Amend subparagraph **79.1(5)“m”(3)** as follows:

(3) ~~If a hospital qualifies for reimbursement for direct medical education or indirect medical education under Medicare guidelines, it shall be reimbursed according to paragraph 79.1(5)“y.”~~ Out-of-state hospitals do not qualify for direct medical education or indirect medical education payments pursuant to paragraph 79.1(5)“y.”

ITEM 4. Amend paragraph **79.1(5)“y”** as follows:

*y. Graduate medical education and disproportionate share fund.* Payment shall be made to hospitals in Iowa qualifying for direct medical education, indirect medical education, or disproportionate share payments directly from the graduate medical education and disproportionate share fund. The requirements to receive payments from the fund, the amounts allocated to the fund, and the methodology used to determine the distribution amounts from the fund are as follows:

(1) to (9) No change.

(10) Qualifying for disproportionate share as a children's hospital. A licensed hospital qualifies for disproportionate share payments as a children's hospital if the hospital provides services predominantly to children under 18 years of age or includes a distinct area or areas providing services predominantly to children under 18 years of age, ~~is a voting member of the National Association of Children's Hospitals and Related Institutions,~~ and has Medicaid utilization and low-income utilization rates of 1 percent or greater for children under 18 years of age at the time of admission in all distinct areas of the hospital where services are provided predominantly to children under 18 years of age. In addition, the hospital must be a voting member of the National Association of Children's Hospitals and Related Institutions for dates of service prior to October 1, 2014, or a member of the National Association of Children's Hospitals and Related Institutions for dates of service on or after October 1, 2014.

A hospital wishing to qualify for disproportionate share payments as a children's hospital for any state fiscal year beginning on or after July 1, 2002, must provide the following information to the Iowa Medicaid enterprise provider cost ~~audits~~ audit and rate setting unit within 20 business days of a request by the department:

1. Base year cost reports.
2. Medicaid claims data for children under the age of 18 at the time of admission to the hospital in all distinct areas of the hospital where services are provided predominantly to children under 18 years of age.
3. Other information needed to determine a disproportionate share rate encompassing the periods used to determine the disproportionate share rate and distribution amounts.

## ARC 1621C

## HUMAN SERVICES DEPARTMENT[441]

## Notice of Intended Action

**Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”**

**Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.**

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services proposes to amend Chapter 79, “Other Policies Relating to Providers of Medical and Remedial Care,” Iowa Administrative Code.

The landscape of Medicaid fraud, waste and abuse has changed and continues to evolve. A number of statutes and rules have changed rapidly in recent years at both the federal and state levels. The Department needs to clarify and make more explicit current policy. These changes are in keeping with the 2010 United States Patient Protection and Affordable Care Act.

Any interested person may make written comments on the proposed amendments on or before September 23, 2014. Comments should be directed to Harry Rossander, Bureau of Policy Coordination, Department of Human Services, Hoover State Office Building, Fifth Floor, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by e-mail to [policyanalysis@dhs.state.ia.us](mailto:policyanalysis@dhs.state.ia.us).

These amendments do not provide for waivers in specified situations because requests for the waiver of any rule may be submitted under the Department’s general rule on exceptions at 441—1.8(17A,217).

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

These amendments are intended to implement Iowa Code section 249A.4.

The following amendments are proposed.

ITEM 1. Amend subrule **79.2(1)**, definitions of “Suspension of payments” and “Withholding of payments,” as follows:

“*Suspension of payments*” means the temporary cessation of payments due a person until the resolution of ~~the a~~ a matter in dispute between ~~the a~~ a person and the department.

“*Withholding of payments*” means a reduction or adjustment of the amounts paid to a person on pending and subsequently submitted bills for purposes of offsetting ~~overpayments previously~~ payments made to, received by, or in the possession of a person.

ITEM 2. Amend subrule 79.2(2) as follows:

**79.2(2) Grounds for sanctions.** The department may impose sanctions against any person when appropriate. Appropriate grounds for the department to impose sanctions include, but are not limited to, the following:

*a. to k.* No change.

*l.* Breaching any settlement or similar agreement with the department, or failing to abide by the terms of any agreement with any other entity relating to, or arising out of, the state medical assistance program.

*m. to v.* No change.

*w.* Billing for services provided by an excluded, nonenrolled, ~~sanctioned~~ terminated, suspended, or otherwise ineligible provider or person.

*x. and y.* No change.

ITEM 3. Amend subrule 79.2(3) as follows:

**79.2(3) Sanctions.**

*a.* No change.

## HUMAN SERVICES DEPARTMENT[441](cont'd)

~~b.~~ The withholding of ~~payments~~ a payment or a recoupment of medical assistance funds is not, in itself, a sanction. ~~Overpayments, civil monetary penalties, and interest charged~~ may also be withheld from future payments to the provider without imposing imposition of a sanction.

~~c.~~ Mandatory suspensions and terminations.

(1) No change.

(2) ~~Termination is mandatory when a person pleads guilty or nolo contendere to, or is convicted of, any crime punishable by a term of imprisonment greater than five years, any crime of violence, any controlled substance offense, or any crime involving an allegation of dishonesty. Termination is also mandatory upon entry of final judgment, in the Iowa district court or a federal district court of the United States, of liability of the person in a false claims action.~~

(3) No change.

(4) Upon notification from the United States Department of Justice, the Iowa department of justice, the department of inspections and appeals, or a similar agency, that a person has failed to respond to a civil investigative demand or other subpoena in a timely manner as set forth in governing law and the demand or other subpoena itself, the department shall immediately suspend the person from participation and suspend all payments to the person. The suspension and payment suspension shall end upon notification that the person has responded to the demand in full.

~~d.~~ Notwithstanding any previous successful enrollment in the medical assistance program, the person's passing of any background check by the department or any other entity, or similar prior approval for participation as a provider in the medical assistance program, in whole or in part, termination from the medical assistance program is mandatory when, in the case of a natural person, the person has within the last five years been listed on any dependent adult abuse registry, child abuse registry, or sex offender registry or, in the case of a corporation or similar entity, 5 percent or more of the corporation or similar entity is owned by a person who has within the last five years been listed on any dependent adult abuse registry, child abuse registry, or sex offender registry.

ITEM 4. Amend subrule 79.2(4) as follows:

**79.2(4)** *Imposition and extent of sanction.*

~~a.~~ The department shall consider the totality of the circumstances in determining the sanctions to be imposed. The factors the department may consider include, but are not limited to:

(1) ~~a.~~ Seriousness of the offense.

(2) ~~b.~~ Extent of violations.

(3) ~~c.~~ History of prior violations.

(4) ~~d.~~ Prior imposition of sanctions.

(5) ~~e.~~ Prior provision of provider education (technical assistance).

(6) ~~f.~~ Provider willingness to obey program rules.

(7) ~~g.~~ Whether a lesser sanction will be sufficient to remedy the problem.

(8) ~~h.~~ Actions taken or recommended by peer review groups or licensing boards.

~~b.~~ A ground for sanction may precede enrollment in the medical assistance program, the person's passing of a background check, or similar prior approval for participation as a provider in the medical assistance program. The mere fact of an enrollment, a person's passing of a background check, or another approval is not relevant to the sanction decision.

~~c.~~ Upon certification from the U.S. Department of Justice or the Iowa department of justice that a provider has failed to respond to a civil investigative demand in a timely manner as set forth in Iowa Code chapter 685 and the demand itself, the department shall immediately suspend the provider from participation and suspend all payments to the provider. The suspension and payment suspension shall end upon certification that the provider has responded to the demand in full.

ITEM 5. Amend paragraph 79.2(7)“a” as follows:

a. Any order of sanction shall be in writing and include the name of the person subject to sanction, identify the ground for the sanction and its effective date, and be sent to the person's last-known address. If the department sanctions a provider, the order of sanction shall also include the national provider identification number of the provider and be sent to the provider's last address on file within the medical

## HUMAN SERVICES DEPARTMENT[441](cont'd)

assistance program. Proof of mailing to such address shall be conclusive evidence of proper service of the sanction upon the provider. The department of inspections and appeals is not required to comply with the additional notification provisions of 441—paragraph 7.10(7)“c” for appeals certified for hearing under this chapter.

ITEM 6. Amend subrule 79.2(8) as follows:

**79.2(8)** ~~*Suspension or withholding of payments pending a final determination. Where the department has notified a provider of any sanction, overpayment, civil monetary penalty, or other adverse action, the*~~ The department may withhold payments on pending and subsequently received claims in an amount reasonably calculated to approximate the amounts in question or due to a sanction, incorrect payment, civil monetary penalty, or other adverse action, and may also suspend payment or participation pending a final determination. Where ~~*If the department intends to withhold or suspend*~~ withholds or suspends payments, it shall notify the provider person in writing within a reasonable time frame.

ITEM 7. Amend subparagraph **79.3(2)“c”(3)** as follows:

(3) Service documentation. The record for each service provided shall include information necessary to substantiate that the service was provided and shall include the following:

1. and 2. No change.

3. The complete time of the service, including the beginning and ending time if the service is billed on a time-related basis. For those non-time-related services billed using Current Procedural Terminology (CPT) codes, the total time of the service shall be recorded, rather than the beginning and ending time.

4. to 9. No change.

ITEM 8. Amend subrule 79.14(3) as follows:

**79.14(3)** Program integrity information requirements.

a. No change.

b. The Iowa Medicaid enterprise may deny enrollment to a provider applicant or disenroll a current provider that has any affiliation as set forth in this rule if the department determines that the affiliation poses a risk of fraud, waste, or abuse. Such denial or disenrollment is appealable under 441—Chapter 7 but, notwithstanding any provision to the contrary in that chapter, the provider shall bear the burden to prove by clear and convincing evidence that the affiliation does not pose any risk of fraud, waste, or abuse. The Iowa Medicaid enterprise shall deny enrollment to or shall immediately disenroll any person that the Iowa Medicaid enterprise, Medicare, or any other state Medicaid program has ever terminated under 441—79.2(249A) or a similar provision and shall deny enrollment to any person presently suspended from participation, or who would be subject to a suspension, under paragraph 79.2(3)“c.” Further, a person sanctioned under 441—79.2(249A) or a similar provision may not manage consumer choices option (CCO) funds for a member.

c. For purposes of this rule, the term “direct or indirect affiliation” includes but is not limited to relationships between individuals, business entities, or a combination of the two. The term includes but is not limited to direct or indirect business relationships that involve:

(1) A compensation arrangement;

(2) An ownership arrangement;

(3) Managerial authority over any member of the affiliation;

(4) The ability of one member of the affiliation to control or influence any other; or

(5) The ability of a third party to control or influence any member of the affiliation.

d. Notwithstanding any previous successful enrollment in the medical assistance program, the passing of any background check by the department or any other entity, or similar prior approval for participation as a provider in the medical assistance program, in whole or in part, disenrollment from the medical assistance program is mandatory when, in the case of a corporation or similar entity, 5 percent or more of the corporation or similar entity is owned, controlled, or directed by a person who (1) has within the last five years been listed on any dependent adult abuse registry, child abuse registry, or sex offender registry; (2) has pled guilty or nolo contendere to, or was convicted of, any crime punishable by a term of imprisonment greater than five years; (3) has, within the last five years, pled guilty or nolo

HUMAN SERVICES DEPARTMENT[441](cont'd)

contendere to, or was convicted of, any controlled substance offense; (4) has, within the last ten years, pled guilty or nolo contendere to, or was convicted of, any crime involving an allegation of dishonesty punishable by a term of imprisonment greater than one year but not more than five years; or (5) within the last ten years, has on more than one occasion pled guilty or nolo contendere to, or was convicted of, any crime involving an allegation of dishonesty.

## ARC 1616C INSPECTIONS AND APPEALS DEPARTMENT[481]

### Notice of Intended Action

**Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”**

**Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.**

Pursuant to the authority of Iowa Code sections 231B.2(1) and 231D.2(2), the Department of Inspections and Appeals hereby gives Notice of Intended Action to amend Chapter 67, “General Provisions for Elder Group Homes, Assisted Living Programs and Adult Day Services,” Iowa Administrative Code.

The amendments implement changes resulting from legislation in 2014 Iowa Acts, House File 2365, which establishes an informal conference process for elder group homes and adult day services programs. The legislation gives elder group homes and adult day services programs the opportunity to contest the Department’s final findings in an informal conference with an independent reviewer. The informal conference provisions in 2014 Iowa Acts, House File 2365, mirror legislation passed for assisted living programs in 2013 Iowa Acts, Senate File 394. The implementation of these amendments will allow for a consistent process between these three types of providers for informally contesting the Department’s final findings.

The Department does not believe that the proposed amendments impose any financial hardship on any regulated entity, body, or individual.

Any interested person may make written suggestions or comments on the proposed amendments on or before September 23, 2014. Such written materials should be addressed to the Director, Department of Inspections and Appeals, Lucas State Office Building, 321 East 12th Street, Des Moines, Iowa 50319-0083; faxed to (515)242-6863; or e-mailed to [david.werning@dia.iowa.gov](mailto:david.werning@dia.iowa.gov).

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

These amendments are intended to implement Iowa Code sections 231B.2(1) and 231D.2(2) and 2014 Iowa Acts, House File 2365.

The following amendments are proposed.

ITEM 1. Rescind and reserve rule **481—67.12(17A,231B,231D)**.

ITEM 2. Amend rule 481—67.13(17A,231C,85GA,SF394), catchwords, as follows:

**481—67.13(17A,231B,231C,231D,85GA,SF394 HF2365) ~~Assisted living programs—exit~~ Exit interview, final report, plan of correction.**

ITEM 3. Amend subrule 67.13(1) as follows:

**67.13(1) *Exit interview.*** The department shall provide an exit interview in person or by telephone at the conclusion of a monitoring, during which the department shall inform the ~~assisted living~~ program’s representative of all issues and areas of concern related to insufficient practices. A second exit interview shall be provided if the department identifies additional issues or areas of concern. The program shall have 2 working days from the date of the exit interview to submit additional or rebuttal information to the department.

## INSPECTIONS AND APPEALS DEPARTMENT[481](cont'd)

ITEM 4. Amend rule 481—67.14(17A,231C,85GA,SF394), introductory paragraph, as follows:

**481—67.14(17A,231B,231C,231D,85GA,SF394 HF2365) Assisted-living programs—response**  
**Response to final report.** Within 20 working days after the issuance of the final report and assessment of civil penalty, if any, the ~~assisted-living~~ program shall respond in the following manner.

ITEM 5. Amend subrule 67.14(1) as follows:

**67.14(1) If not contesting final report.** If the program does not desire to seek an informal conference or contest the final report and civil penalty, if assessed, the program shall remit to the department of inspections and appeals the amount of the civil penalty, if assessed. If ~~an assisted-living~~ a program has been assessed a civil penalty, the civil penalty shall be reduced by 35 percent if the requirements of subrule 67.17(5) are met.

ITEM 6. Amend subrule 67.14(2), introductory paragraph, as follows:

**67.14(2) Informal conference.** If the ~~assisted-living~~ program desires to contest the final report and civil penalty, if assessed, and request an informal conference, the ~~assisted-living~~ program shall notify the department of inspections and appeals in writing that it desires to contest the final report and civil penalty and request in writing an informal conference with an independent reviewer.

ITEM 7. Amend subparagraph **67.14(2)“b”(2)** as follows:

(2) Documentation supporting the ~~assisted-living~~ program’s position. The ~~assisted-living~~ program must highlight or use some other means to identify written information pertinent to the disputed regulatory insufficiency(ies). Supporting documentation that is not submitted with the request for an informal conference will not be considered, except as otherwise permitted by the independent reviewer upon good cause shown. “Good cause” means substantial or adequate grounds for failing to submit documentation in a timely manner. In determining whether the program has shown good cause, the independent reviewer shall consider what circumstances kept the program from submitting the supporting documentation within the required time frame.

ITEM 8. Amend subparagraph **67.14(2)“c”(2)** as follows:

(2) The conference will be scheduled for one hour. The ~~assisted-living~~ program will informally present information and explanation concerning the contested regulatory insufficiency(ies). The department will have time to respond to the ~~assisted-living~~ program’s presentation. Due to the confidential nature of the conference, attendance may be limited.

ITEM 9. Amend subparagraph **67.14(2)“c”(4)** as follows:

(4) When extenuating circumstances preclude a face-to-face conference, a telephone conference will be held or the ~~assisted-living~~ program may be given one opportunity to reschedule the face-to-face conference.

ITEM 10. Amend subparagraph **67.14(2)“d”(3)** as follows:

(3) The ~~assisted-living~~ program must submit to the department a new plan of correction for the amended or corrected report within 10 calendar days from the date of the letter conveying the results of the conference.

ITEM 11. Amend paragraph **67.14(3)“a”** as follows:

a. If the ~~assisted-living~~ program does not desire to further contest an affirmed or modified final report, the ~~assisted-living~~ program shall, within 5 working days after receipt of the written decision of the independent reviewer, remit to the department of inspections and appeals the civil penalty, if assessed.

ITEM 12. Amend paragraph **67.14(3)“b”** as follows:

b. If the ~~assisted-living~~ program does desire to further contest an affirmed or modified final report, the ~~assisted-living~~ program shall, within 5 working days after receipt of the written decision of the independent reviewer, notify the department of inspections and appeals in writing that it desires to formally contest the final report.

**ARC 1615C**

**INSPECTIONS AND APPEALS DEPARTMENT[481]**

**Notice of Intended Action**

**Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”**

**Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.**

Pursuant to the authority of Iowa Code section 135G.10, the Department of Inspections and Appeals hereby gives Notice of Intended Action to adopt new Chapter 71, “Subacute Mental Health Care Facilities,” Iowa Administrative Code.

Iowa Code chapter 135G, “Subacute Mental Health Care Facilities,” provides for the establishment of basic standards for the operation of subacute care facilities to ensure the safe and adequate diagnosis, evaluation and treatment of persons with serious and persistent mental illness so that the persons are able to experience recovery and live successfully in the community. Pursuant to Iowa Code section 135G.10, the Department collaborated with the Department of Human Services to establish standards for licensing of subacute care facilities and consulted with affected professional groups about the rules prior to publication of this Notice.

The Department does not believe that the proposed rules pose a financial hardship on any regulated entity or individual.

Any interested person may make written suggestions or comments on the proposed rules on or before September 23, 2014. Such written materials should be addressed to the Director, Department of Inspections and Appeals, Lucas State Office Building, 321 East 12th Street, Des Moines, Iowa 50319-0083; faxed to (515)242-6863; or e-mailed to [David.Werning@dia.iowa.gov](mailto:David.Werning@dia.iowa.gov).

Additionally, there will be a public hearing on September 24, 2014, at 10 a.m. in Room 320 of the Lucas State Office Building, 321 East 12th Street, Des Moines, Iowa, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the rules.

Any person who intends to attend the public hearing and has special requirements, such as those relating to hearing or mobility impairments, should contact the Department of Inspections and Appeals and advise of special needs.

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

These rules are intended to implement Iowa Code section 135G.10.

The following amendment is proposed.

Adopt the following **new** 481—Chapter 71:

CHAPTER 71  
SUBACUTE MENTAL HEALTH CARE FACILITIES

**481—71.1(135G) Purpose—subacute mental health services.** Subacute mental health services are intended to be short-term, intensive, recovery-oriented services designed to stabilize an individual who is experiencing a decreased level of functioning due to a mental health condition.

**481—71.2(135G) Definitions.** For the purpose of these rules, the following terms shall have the meanings indicated in this chapter. The definitions set out in Iowa Code section 135G.1 are adopted by reference in the rules.

“*Administrator*” means an individual who administers, manages, supervises, and is in general administrative charge of a subacute care facility, whether or not such individual has an ownership

## INSPECTIONS AND APPEALS DEPARTMENT[481](cont'd)

interest in the facility and whether or not the functions and duties are shared with one or more individuals.

*“Assessment”* means the evaluation of a person in psychiatric crisis in order to ascertain the person’s current and previous level of functioning, psychiatric and medical history, potential for dangerousness, current psychiatric and medical condition factors contributing to the crisis and support systems that are available.

*“Could”* means a standard is recommended.

*“Distinct part”* means a clearly identifiable area or section within a health care facility, consisting of at least a residential unit, wing, floor, or building containing contiguous rooms.

*“Incident”* means an unusual occurrence within a facility or on its premises affecting residents, visitors, or employees whether or not there is apparent injury or where hidden injury may have occurred.

*“Medication”* means any drug including over-the-counter substances ordered and administered under the direction of a physician or physician extender.

*“Must”* means a standard is mandatory.

*“Peer support”* means services that are provided by individuals in recovery from serious mental illness and delivered to others who also have mental illness.

*“Physician extender”* means an advanced registered nurse practitioner, clinical nurse specialist, or physician assistant who is working in collaboration with the resident’s physician.

*“Responsible party”* means the person who signs or cosigns the admission agreement required in rule 481—71.13(135G) or the resident’s guardian or conservator if one has been appointed. In the event that a resident does not have a guardian, conservator or other person signing the admission agreement, the term “responsible party” shall include the resident’s sponsoring agency, e.g., the department of human services, the U.S. Department of Veterans Affairs, a religious group, fraternal organization, or foundation that assumes responsibility and advocates for its client patients and pays for their health care.

*“Restraint”* means the application of physical force, use of a chemical agent, or a mechanical device for the purpose of restraining the free movement of an individual’s body to protect the individual or others from immediate harm. Restraint does not include briefly holding without undue force an individual to calm or comfort the individual or holding an individual’s hand to safely escort the individual from one area to another.

*“Restricted means of egress”* means an exit door alarm system for safety of the residents and the public.

*“Seclusion”* means the involuntary confinement of a resident alone in a room or an area, from which the resident is physically prevented from leaving.

*“Shall”* means a standard is mandatory.

*“Should”* means a standard is recommended.

#### **481—71.3(135G) Application for licensure.**

**71.3(1) Initial application and licensing.** In order to obtain an initial license for a subacute care facility, the applicant must meet all the requirements of the rules, regulations, and standards contained in Iowa Code chapter 135G and in this chapter and must make application at least 30 days prior to the proposed licensure date of the subacute care facility on forms provided by the department. The applicant must:

- a. Submit a résumé of care with a narrative which includes the following information:
  - (1) The purpose of the facility.
  - (2) A description of the target population and limitations on resident eligibility.
  - (3) Identification and description of the services the facility will provide, which shall minimally include specific and measurable goals and objectives for each of the services to be made available by the facility and a description of the resources needed to provide each of the services, including staff, physical facilities and funds.
  - (4) A description of the human services system available in the area including, but not limited to, social, public health, visiting nurse, vocational training, and employment services, residential living arrangements, and services of private agencies.

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(5) A description of working relationships with human services agencies when applicable, which shall include at a minimum:

1. A description of how the facility will coordinate with human services agencies to facilitate continuity of care and coordination of services to residents; and

2. A description of how the facility will coordinate with human services agencies to identify unnecessary duplication of services and plan for development and coordination of needed services;

*b.* Submit a floor plan of each floor of the facility drawn on 8½- × 11-inch paper showing room areas in proportion, room dimensions, room numbers for all rooms, including bathrooms, the designation of the use to which each room will be put, and window and door location;

*c.* Submit a photograph of the front and side elevation of the facility;

*d.* Submit the statutory fee for a subacute care facility license;

*e.* Show evidence of a certificate signed by the state fire marshal or deputy state fire marshal certifying compliance with fire safety rules.

**71.3(2)** *Conversion from an intermediate care facility for persons with mental illness.* An intermediate care facility for persons with mental illness may be converted to a subacute care facility pursuant to Iowa Code section 135G.4(2) if the facility:

*a.* Provides written notice to the department that the facility has employed a full-time psychiatrist and desires to make the conversion; and

*b.* Submits an application to the department.

**71.3(3)** *Renewal application or change of ownership.* In order to obtain a renewal or change of the subacute care facility license, the applicant must:

*a.* Submit to the department the completed application form 30 days prior to the annual license renewal or change of ownership date;

*b.* Submit the statutory license fee for a subacute care facility with the application for renewal or change of ownership;

*c.* Have an approved, current certificate signed by the state fire marshal or deputy state fire marshal certifying compliance with fire safety rules and regulations; and

*d.* Submit appropriate changes in the résumé of care to reflect any changes in the resident care program or other services.

**71.3(4)** *Issuance of license.* Licenses are issued to the person or governmental unit with responsibility for the operation of the facility and authority to comply with all applicable statutes, rules or regulations. The person or governmental unit must be the owner of the facility or, if the facility is leased, the lessee.

**71.3(5)** *Department of human services approval.* Prior to issuance of the license, the department of human services must submit to the department written approval of the application based upon the process used by the department of human services to identify the best-qualified providers.

**71.3(6)** *Licensed beds limit.* The total number of publicly funded subacute care facility beds licensed under this chapter shall not exceed 50.

**71.3(7)** *Beds per facility.* A single facility shall not be licensed for more than 16 beds.

**481—71.4(135G) Licenses for distinct parts.**

**71.4(1)** Separate licenses may be issued for distinct parts of a health care facility which are clearly identifiable, include specifically designated rooms within the facility, and provide separate categories of care and services.

**71.4(2)** The following requirements shall be met for a separate licensing of a distinct part:

*a.* The distinct part shall serve only residents who require the category of care and services immediately available to the residents within that part;

*b.* The distinct part shall meet all the standards, rules, and regulations pertaining to the category for which a license is being sought;

*c.* A distinct part must be operationally and financially feasible.

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**481—71.5(135G) Variances.**

**71.5(1)** Variances from these rules may be granted by the director of the department if, in addition to the requirements of 481—Chapter 6:

- a. The need for a variance has been established consistent with the résumé of care or the resident's individual program plan; and
- b. There is no danger to the health, safety, welfare, or rights of any resident.

**71.5(2)** The variance will apply only to a subacute care facility.

**71.5(3)** Variances shall be reviewed by the department at the time of each licensure survey to verify whether the facility is still eligible for the variance.

**481—71.6(135G) Provisional license.**

**71.6(1)** *Provisional license procedure.* The department may issue a provisional license to a subacute care facility pursuant to Iowa Code section 135G.8. The procedure for issuance of a provisional license shall be as follows:

- a. The department shall first issue to the facility a report which identifies the deficiency.
- b. Within 10 working days after receipt of the report, the facility shall provide the department with a written plan of correction.
- c. The department shall review the written plan of correction within 10 working days of receipt. The department may request additional information or revision to the plan, which shall be provided as requested.
- d. After accepting the written plan of correction, the department shall then issue a provisional license to the facility, which shall not exceed one year in duration.

**71.6(2)** *Written plan of correction.* The written plan of correction shall contain:

- a. How the facility will correct the deficient practice;
- b. How the facility will act to protect residents;
- c. The measures the facility will take or the systems it will alter to ensure that the deficient practice does not recur; and
- d. The date when the plan of correction will be completed, not to exceed 30 days from the date of the department's report.

**481—71.7(135G) General requirements.**

**71.7(1)** The license shall be displayed in the facility in a conspicuous place which is viewed by the public.

**71.7(2)** The license shall be valid only for the premises and person named on the license and is not transferable.

**71.7(3)** The posted license shall accurately reflect the current status of the subacute care facility's license.

**71.7(4)** A license shall expire one year after the date of issuance or as indicated on the license.

**71.7(5)** There shall be no more beds added than are stipulated on the license.

**481—71.8(135G) Required notifications to the department.**

**71.8(1)** The department shall be notified:

- a. Thirty days in advance of any proposed change in the subacute care facility's functional operation or the addition or deletion of required services;
- b. Thirty days before any addition, alteration, or new construction is begun in the subacute care facility or on the premises;
- c. Thirty days in advance of any closure of the subacute care facility;
- d. Within two weeks of any change in administrator;
- e. Within 30 days of the date on which any change in the category of license is sought;
- f. Within 30 days of any proposed change in the résumé of care for the subacute care facility;

**71.8(2)** Prior to the purchase, transfer, assignment, or lease of a subacute care facility, the licensee shall:

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- a. Inform the department of the pending sale, transfer, assignment, or lease of the facility; and
- b. Inform the department of the name and address of the prospective purchaser, transferee, assignee, or lessee at least 30 days before the sale, transfer, assignment, or lease is completed.

**71.8(3)** Within 24 hours, or the next business day, by the most expeditious means available, the department shall be notified:

- a. Of any accident causing major injury. "Major injury" shall be defined as any injury which:
  - (1) Results in death; or
  - (2) Requires admission to a higher level of care for treatment, other than for observation; or
  - (3) Requires consultation with the attending physician, designee of the physician, or physician extender who determines, in writing, on a form designated by the department, that an injury is a "major injury" based upon the circumstances of the accident, the previous functional ability of the resident, and the resident's prognosis;
- b. When a resident attempts suicide, regardless of injury;
- c. When damage to the facility is caused by a natural or other disaster;
- d. When a fire occurs in a facility and the fire requires the notification of emergency services, requires full or partial evacuation of the facility, or causes physical injury to a resident;
- e. When a defect or failure occurs in the fire sprinkler or fire alarm system for more than 4 hours in a 24-hour period. (This reporting requirement is in addition to the requirement to notify the state fire marshal.)

**481—71.9(135G) Reports of dependent adult abuse.** Reports of suspected dependent adult abuse shall be made to the department of human services.

**481—71.10(135G) Administrator.**

**71.10(1)** *Administrator required.* Each subacute care facility shall have one person in charge who is duly approved by the department or acting in a provisional capacity in accordance with these rules.

**71.10(2)** *Qualifications of an administrator.* The administrator shall be at least 21 years of age and shall have a high school diploma or equivalent. In addition, the person shall meet at least one of the following conditions:

- a. Be a qualified mental health professional with at least one year of experience in an administrative capacity; or
- b. Have a four-year degree in human services, psychology, sociology, nursing, health care administration, public administration, or a related field and have a minimum of one year of experience in the field; or
- c. Have a master's degree in human services, psychology, sociology, nursing, health care administration, public administration, or a related field; or
- d. Be a licensed nursing home administrator.

**71.10(3)** *Administrator—distinct part.* If a subacute care facility is a distinct part of a licensed health care facility, the administrator of the facility as a whole may serve as the administrator of the subacute care facility.

**71.10(4)** *Provisional administrator.* A provisional administrator may be appointed on a temporary basis by the subacute care facility licensee to assume the administrative responsibilities of the facility for a period not to exceed 12 months when the facility has, through no fault of its own, lost its administrator and has not been able to replace the administrator, provided the department has been notified and has approved the provisional administrator prior to the date of the administrator's appointment. The provisional administrator must meet the requirements of subrule 71.10(2).

**71.10(5)** *Administrator—initial licensing of facility.* A facility applying for an initial license shall not have a provisional administrator.

**71.10(6)** *Duties of administrator.* An administrator shall:

- a. Be responsible for the implementation of procedures to support the policies established by the licensee;
- b. Select and direct competent personnel who provide services for the subacute care facility;

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- c.* Make a policies and procedures manual available to all staff;
- d.* Be responsible for a monthly in-service educational program for all employees and maintain records of programs and participants;
- e.* Make staff payroll records available for departmental review as needed;
- f.* Furnish to the department within 30 days of the department's request statistical information concerning the operation of the facility.

**481—71.11(135G) Administration.**

**71.11(1)** The licensee shall:

- a.* Assume the responsibility for the overall operation of the subacute care facility;
- b.* Be responsible for compliance with all applicable laws and with the rules of the department;
- c.* Establish written policies, which shall be available for review, for the operation of the subacute care facility.

**71.11(2)** The policy and procedures shall include:

- a.* Personnel;
- b.* Admission;
- c.* Evaluation services;
- d.* Treatment and discharge plan;
- e.* Crisis intervention, including restraint and seclusion;
- f.* Involuntary discharge or transfer;
- g.* Medication management;
- h.* Records;
- i.* Resident rights.

**481—71.12(135G) Personnel.**

**71.12(1)** Staffing requirements. Availability of personnel must be sufficient to meet psychiatric and medical treatment needs of the residents served.

**71.12(2)** Staffing shall include at minimum:

- a.* Twenty-four hour, seven days per week availability of on-call psychiatrist or advanced registered nurse practitioner with at least one year of experience in psychiatric care;
- b.* Twenty-four hour, seven days per week availability of a registered nurse with at least two years of experience in psychiatric care, or a BSN registered nurse with at least one year of experience in psychiatric care;
- c.* A mental health professional as defined in Iowa Code section 228.1(6);
- d.* Direct care staff with at least three years of experience in a mental health care setting; and
- e.* Social service staff at the bachelor level with at least one year of experience in a mental health care setting.

**71.12(3)** Personnel policies and procedures shall include the following requirements:

- a.* Written job descriptions for all employees or agreements for all consultants, which include duties and responsibilities, education, experience, or other requirements, and supervisory relationships.
- b.* Annual performance evaluations of all employees and consultants which are dated and signed by the employee or consultant and the supervisor.
- c.* Personnel records which are current, accurate, complete, and confidential to the extent allowed by law. The record shall contain documentation of how the employee's or consultant's education and experience are relevant to the position for which the employee or consultant was hired.
- d.* Roles, responsibilities, and limitations of student interns and volunteers.
- e.* An orientation program for all newly hired employees and consultants that includes an introduction to the facility's personnel policies and procedures and a discussion of the facility's safety plan.
- f.* Equal opportunity and affirmative action employment practices.
- g.* Procedures to be used when disciplining an employee.
- h.* Appropriate dress and personal hygiene for staff.

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*i.* An overview of recovery principles, person-centered planning and residents' rights.

**71.12(4)** The facility shall require regular health examinations for all personnel prior to employment and regular examinations thereafter at least every four years. The examination shall include, at a minimum, the health status of the employee, including screening and testing for tuberculosis as described in 481—Chapter 59.

*a.* No person shall be allowed to provide services in a facility if the person has a disease:

- (1) Which is transmissible through required workplace contact;
- (2) Which presents a significant risk of infecting others;
- (3) Which presents a substantial possibility of harming others; and
- (4) For which no reasonable accommodation can eliminate the risk.

*b.* There shall be written policies for emergency medical care for employees in case of sudden illness or accident. These policies shall include the administrative individuals to be contacted.

*c.* Health certificates for all employees shall be available for review by the department.

**71.12(5)** Personnel record.

*a.* A personnel record shall be kept for each employee.

*b.* The record shall include the employee's:

- (1) Name and address,
- (2) Social security number,
- (3) Date of birth,
- (4) Date of employment,
- (5) References,
- (6) Position in the facility,
- (7) Job description,
- (8) Documentation of experience and education,
- (9) Staff development plan,
- (10) Annual performance evaluation,
- (11) Documentation of disciplinary action,
- (12) Date and reason for discharge or resignation,
- (13) Current physical examination.

**481—71.13(135G) Admission, transfer, and discharge.**

**71.13(1)** *General admission policies.*

*a.* A subacute care facility shall not admit or retain a resident who is in need of greater services than the facility can provide.

*b.* Prior to admission of an applicant, the facility shall obtain sufficient information to determine if its program is appropriate and adequate to meet the individual's needs.

*c.* A subacute care facility shall admit only as many residents as indicated by the number of beds for which the facility is licensed.

*d.* A subacute care facility shall adopt policies regarding the admission requirements outlined in subrule 71.13(2).

**71.13(2)** *Admission requirements.*

*a.* Eligibility for individualized subacute mental health services will be determined by the standardized preadmission screening utilized by the facility, which shall be conducted by a qualified mental health professional.

*b.* In order to be admitted, the individual must:

- (1) Be 18 years or older;
- (2) Be voluntarily admitted;
- (3) During the past year, have had a diagnosable mental, behavioral or emotional disorder that meets the diagnostic criteria specified in the most current edition of the Diagnostic and Statistical Manual of Mental Disorders (DSM);
- (4) Demonstrate a high degree of impairment through significantly impaired mental, social, or educational functioning arising from the psychiatric condition or serious emotional disturbance;

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(5) Demonstrate an impairment that severely limits the skills necessary to maintain an adequate level of functioning outside a treatment program and requires active treatment to obtain an adequate level of functioning;

(6) Demonstrate a low level of stability through any two of the following conditions:

1. The individual presents moderate to high risk of danger to self or others.
2. The individual lacks adequate skills or social support to address mental health symptoms.
3. The individual is medically stable but requires observation and care for stabilization of a mental health condition or impairment.

**71.13(3) Admission agreement.** A subacute care facility shall provide an admission agreement to each resident upon admission to the facility. Each admission agreement shall include:

- a. Method of payment;
- b. Schedule of services and any additional fees;
- c. The facility's policies regarding length of stay, discharge and transfer.

**71.13(4) Exclusion criteria.**

a. A subacute care facility shall not admit an individual into the facility if:

(1) The individual manifests behavioral or psychiatric symptoms that require acute care;

(2) The individual can be safely maintained and effectively treated with less intensive services in a community setting;

(3) The symptoms of the individual do not meet admission criteria in subrule 71.13(2); or

(4) The individual does not voluntarily consent to treatment.

b. An individual's lack of adequate place of residence, placement, or housing is not reason to receive subacute mental health services.

**71.13(5) Continued stay criteria policies.** By the tenth day following admission and every ten calendar days thereafter, the qualified mental health professional shall conduct and document an assessment of the resident and determine if:

a. The severity of the behavioral and emotional symptoms continue to require the subacute level of intervention and the DSM diagnosis remains the principal diagnosis.

b. The prescribed interventions remain consistent with the intended treatment plan outcomes.

c. There is documented evidence of active, individualized discharge planning.

d. There is a reasonable likelihood of substantial benefit in the resident's mental health condition as a result of active intervention of the 24-hour supervised program.

e. Symptoms and behaviors that required admission are continuing.

f. A less intensive level of care would be insufficient to stabilize the resident's condition.

g. New issues that meet the admission guidelines in subrule 71.13(2) have appeared.

h. The resident requires further stabilization subsequent to acute care to treat active mental health symptoms such as psychosis, depression or mood disorder.

**71.13(6) Discharge criteria policies.** A resident may be discharged from subacute level of care if:

a. The resident's treatment plan goals and objectives for subacute services have been met and a discharge plan to outpatient or other community-based services is in place.

b. The resident withdraws consent for treatment.

c. The resident's physical condition necessitates transfer to a more intensive level of care.

d. The resident is not making progress toward treatment goals and there is no reasonable expectation of progress at the subacute level of care.

e. The resident becomes a danger to self, others, or facility structure and requires an emergency transfer to a higher level of care.

f. The resident repeatedly refuses to participate in the resident's treatment plan.

**71.13(7) Discharge or transfer.**

a. The facility shall give prior notification to the resident, as well as the resident's next of kin, legal representative, attending physician or physician extender, and sponsoring agency, if any, prior to transfer or discharge of any resident.

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*b.* The subacute care facility shall make proper arrangements for the welfare of the resident prior to transfer or discharge in the event of an emergency or inability to reach the next of kin or legal representative.

*c.* The facility shall make advance notification to the receiving facility prior to the transfer of any resident, if the resident is to be transferred to another facility. Prior to the transfer or discharge of a resident to another health care facility, arrangements to provide for continuity of care shall be made with the facility to which the resident is being transferred.

*d.* The appropriate record as set forth in subrule 71.18(1) shall accompany the resident when the resident is transferred or discharged.

**481—71.14(135G) Treatment plan.**

**71.14(1)** A treatment plan must be developed with each resident. The plan must be based on initial and ongoing assessment of need, be designed to resolve the acute or crisis mental health symptoms or the imminent risk of acute or crisis mental health symptoms, and be completed within six hours of admission.

**71.14(2)** The treatment plan must be documented in the resident's record and must include the following:

- a.* The resident's name.
- b.* The date the plan is developed.
- c.* Standardized diagnostic formulations, including but not limited to the current Diagnostic and Statistical Manual (DSM) or the current International Statistical Classification of Diseases and Related Health Problems (ICD).
- d.* Problems and strengths of the resident that are to be addressed.
- e.* Observable and measurable individual objectives that relate to the specific problems identified.
- f.* Interventions that address specific objectives, identification of staff responsible for interventions, and planned frequency of interventions.
- g.* Signatures of treatment staff responsible for developing the plan, including the qualified prescriber.
- h.* Signatures of the resident and any parent, guardian, conservator, or legal custodian. Reasons for refusal to sign or inability to participate in treatment plan development must be documented.
- i.* A projected discharge date and anticipated postdischarge needs, including documentation of resources needed in the community.
- j.* A review of the treatment plan must occur at least daily or upon completion of the stated goals or objectives and must include the following documentation:
  - (1) Dated signatures of appropriate treatment staff, including the qualified prescriber;
  - (2) Progress toward each treatment objective, with revisions as indicated;
  - (3) Status of discharge plans, including availability of resources needed by the resident in the community, with revisions as indicated;
  - (4) A statement by the staff psychiatrist, physician or physician extender of justification for the level of services needed, including an assessment of suitability for treatment in a less restrictive environment.

**481—71.15(135G) Crisis intervention.**

**71.15(1)** There shall be written policies and procedures concerning crisis intervention. These policies and procedures shall be:

- a.* Directed to maximizing the growth and development of the individual by incorporating a hierarchy of available alternative methods that emphasize positive approaches;
- b.* Available in each program area and living unit;
- c.* Available to individuals and their families; and
- d.* Developed with the participation, as appropriate, of individuals served.

**71.15(2)** An emergency safety intervention must be performed in a manner that is safe, proportionate, and appropriate to the severity of the behavior and to the individual's chronological and developmental age, size, gender, physical, medical, and psychiatric condition and personal history, including any history of physical or sexual abuse.

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**481—71.16(135G) Seclusion and restraint.**

**71.16(1)** Pursuant to Iowa Code section 135G.3(2), a subacute care facility utilizing a seclusion room must meet the conditions of 42 CFR § 483.364(b). Use of the seclusion room shall be approved by a licensed psychiatrist or by order of the resident's physician, a physician assistant, or an advanced registered nurse practitioner.

**71.16(2)** There shall be written policies that define the use of restraint, designate the staff member who may authorize its use, and establish a mechanism for monitoring and controlling its use.

**71.16(3)** Restraint shall not be used for punishment, for the convenience of staff, or as a substitution for supervision. Restraint shall only be used:

- a. In an emergency to prevent injury to the resident or to others; or
- b. For crisis intervention.

**71.16(4)** Restraint must not result in harm or injury to the resident and must be used only to ensure the safety of the resident or others during an emergency situation until the emergency situation has ceased, even if the restraint order has not expired.

**71.16(5)** The use of restraint should be selected only when other less restrictive measures have been found to be ineffective to protect the resident or others. The staff shall demonstrate effective treatment approaches and alternatives to the use of restraint.

**71.16(6)** Standing or as needed orders for restraint are prohibited.

**71.16(7)** Under no circumstances shall a resident be allowed to actively or passively assist in the restraint of another resident.

**71.16(8)** Staff trained in the use of emergency safety interventions must be physically present and continually assessing and monitoring the well-being of the resident and the safe use of restraint throughout the duration of the emergency situation.

**71.16(9)** After all less-restrictive measures have been attempted to end the emergency safety situation, the resident must be assessed by a physician, or other licensed practitioner permitted by law to order restraint, who will then give a one-time order for that specific resident in an emergency safety situation. Once that order has expired, it may not be renewed on a planned, anticipated, or as-needed basis.

**71.16(10)** Staff must document in the resident's record and in a centralized tracking system any use of restraint or seclusion.

**71.16(11)** As soon as reasonably possible after the restraint or seclusion of a resident has terminated, staff must meet to process the restraint or seclusion occurrence and document in writing the meeting.

**71.16(12)** A resident who requires restraint or seclusion on multiple occasions should be considered for a higher level of care.

**71.16(13)** The facility shall provide to the staff training by qualified professionals on physical restraint and seclusion theory and techniques.

a. The facility shall keep a record of the training, including attendance, for review by the department.

b. Only staff who have documented training in physical restraint and seclusion theory and techniques shall be authorized to assist with seclusion or physical restraint of a resident.

**481—71.17(135G) Medication management.**

**71.17(1)** Medications must be ordered by qualified prescribers and administered by qualified personnel.

**71.17(2)** Prescription medication must be legally dispensed and labeled according to state law.

**71.17(3)** All medication errors, drug reactions and suspected drug overmedication must be documented and reported to the practitioner who prescribed the medication.

**71.17(4)** All medications and other preparations intended for internal or external human use must be stored in medicine cabinets or drug rooms. When preservation of the medication or other preparation requires refrigeration, the facility must provide a means of securely refrigerating these items. Such cabinets or drug rooms must be kept securely locked when not in use, and the key must be in the possession of the supervising nurse or other authorized person.

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**71.17(5)** Schedule II drugs must be stored within two separately locked compartments at all times and accessible only to qualified personnel in charge of administering medication.

**71.17(6)** Any unused portions of program-prescribed medication(s) must be either turned over to the resident with written authorization and directions by the qualified prescriber or returned to a pharmacy for proper disposition by the pharmacist.

**71.17(7)** Whenever a resident brings the resident's own prescribed medications into the facility, such medications must not be administered unless identified and ordered by a qualified prescriber. If such medications cannot be administered, they must be packaged, sealed, and returned to an adult member of the resident's immediate family or the legal guardian or securely stored and returned to the resident upon discharge. However, if previously prescribed medication would prove harmful to the resident, the medication may be withheld from the resident and disposed of in accordance with subrule 71.17(6). There must be documentation by the qualified prescriber in the resident's clinical record citing the dangers or contraindications of the medication being withheld.

**71.17(8)** All potent, poisonous, or caustic materials shall be stored separately from medications. All potent, poisonous, or caustic materials shall be plainly labeled and stored in a specific, well-illuminated cabinet, closet or storeroom and made accessible only to authorized personnel.

**481—71.18(135G) Records.**

**71.18(1)** *Resident record.* The licensee shall keep a permanent record about each resident with all entries current, dated, and signed. The record shall include:

- a. Name and previous address of resident;
- b. Birth date, sex, and marital status of resident;
- c. Provisional or admitting diagnosis;
- d. A biopsychosocial history sufficient to provide data on the resident's relevant past history, present situation, social support system, community resource contacts, and other information relevant to appropriate treatment and discharge planning;
- e. Physician's or physician extender's name, telephone number, and address;
- f. Name, address and telephone number of next of kin or legal representative;
- g. Name, address and telephone number of the person to be notified in case of emergency;
- h. Pharmacy name, telephone number, and address;
- i. Physician's or physician extender's written and signed orders for medication and treatments;
- j. Any change in the resident's condition;
- k. Notations describing the resident's condition on admission, transfer, and discharge;
- l. A copy of instructions given to the resident, legal representative, or facility in the event of discharge or transfer;
- m. Individualized treatment and discharge or transfer plan pursuant to rule 481—71.14(135G);
- n. Progress notes, including any use of seclusion or restraint pursuant to rule 481—71.16(135G), recorded by the psychiatrist, physician or physician extender, nurse, social worker and, when appropriate, others significantly involved in active treatment modalities. Progress notes must contain a concise assessment of the resident's progress and recommendations for revising the treatment plan as indicated by the resident's condition;
- o. The discharge summary, including a recapitulation of the resident's hospitalization, recommendations for appropriate services concerning follow-up, and a brief summary of the resident's condition on discharge.

**71.18(2)** *Confidentiality of resident records.* The facility shall have policies and procedures providing that each resident shall be assured confidential treatment of all information, including information contained in electronic records.

a. The facility shall limit access to any resident records to staff and consultants providing professional services to the resident. Information shall be made available to staff only to the extent that the information is relevant to the staff person's responsibilities and duties. This restriction shall not preclude access by representatives of state or federal regulatory agencies.

## INSPECTIONS AND APPEALS DEPARTMENT[481](cont'd)

b. The resident, or the resident's legal guardian, shall be entitled to examine all information and shall have the right to secure full copies of the record at reasonable cost upon request, unless the physician or physician extender or qualified mental health professional determines the disclosure of the record or a section thereof is contraindicated, in which case the designated information will be redacted prior to making the record available to the resident. This determination and the reasons for it must be documented in the resident's record.

**71.18(3) Incident records.**

a. Each subacute care facility shall maintain an incident record report and shall have available incident report forms.

b. A report of every unusual occurrence shall be detailed on the printed incident report form.

c. The person in charge at the time of the unusual occurrence shall oversee the preparation of and sign the incident report.

d. A copy of the incident report shall be kept on file in the facility and shall be available for review and a part of administrative records.

**71.18(4) Retention of records.**

a. Records shall be retained in the facility for five years following termination of services to the resident, even when there is a change of ownership.

b. When the facility ceases to operate, the resident's record shall be released to the facility to which the resident is transferred. If no transfer occurs, the record shall be released to the individual's physician or physician extender.

**481—71.19(135G) Residents' rights in general.**

**71.19(1) Policies and procedures.** Each facility shall ensure that policies and procedures are written and implemented, include all of the following subrules, and govern all areas of service provided to staff and residents, their families or legal representatives. The policies and procedures shall be available to the public and shall be reviewed annually by the facility.

**71.19(2) Grievances.** Written policies and procedures shall include a method for submission of grievances and recommendations by residents or their responsible parties and a method to ensure a response and disposition by the facility. The written grievance procedure shall ensure protection of the resident from any form of reprisal or intimidation and shall include:

a. The name of an employee or an alternate staff person designated to be responsible for handling grievances and recommendations; and

b. Methods to investigate and assess the validity of a grievance or recommendation, resolve grievances, and take action.

**71.19(3) Informed of rights.** Policies and procedures shall include a provision that each resident shall be fully informed of the resident's rights and responsibilities as a resident and of all rules governing resident conduct and responsibilities. This information must be provided upon admission.

a. The facility shall inform residents about what they may expect from the facility and its staff and what is expected from residents.

b. Residents' rights and responsibilities shall be presented in language understandable to the resident. If the facility serves residents who are not English-speaking or are hearing impaired, steps shall be taken to translate the information into the person's native language or sign language. In the case of visually impaired residents, either Braille or a recording shall be provided.

c. A statement shall be signed by the resident and legal guardian, if applicable, indicating an understanding of these rights and responsibilities, and the statement shall be maintained in the record. A copy of the signed statement shall be given to the resident or legal guardian.

**71.19(4) Informed of health condition.** Each resident or legal guardian shall be fully informed by a physician or physician extender of the resident's health and medical condition unless medically contraindicated as documented by a physician or physician extender in the resident's record.

**71.19(5) Posting of names.** The facility shall post in a prominent area the name, telephone number, and address of the survey agency, the local law enforcement agency and the protection and advocacy agency designated to provide to residents another course of redress.

## INSPECTIONS AND APPEALS DEPARTMENT[481](cont'd)

**71.19(6) *Dignity preserved.*** Each resident shall be treated with consideration, respect, and full recognition of the resident's dignity and individuality, including privacy in treatment and in care of personal needs.

*a.* Corporal punishment, verbal abuse, or any other activity that would be damaging to an individual's self-respect shall be prohibited by written policy.

*b.* Medication shall not be used as punishment, for the convenience of staff, or as a substitute for a program.

*c.* Staff shall display respect for residents when speaking with, caring for, or talking about them, as constant affirmation of the individuality and dignity of human beings.

*d.* Residents shall be examined and treated in a manner that maintains the privacy of their bodies. A closed door shall shield the resident from passersby. People not involved in the care of the residents shall not be present without the resident's consent while the resident is being examined or treated.

*e.* Staff shall knock and be acknowledged before entering a resident's room unless the resident is not capable of a response. This does not apply under emergency conditions.

**71.19(7) *Communications.*** Each resident may communicate, associate, and meet privately with persons of the resident's choice, unless to do so would infringe upon the rights of other residents. Each resident may send and receive personal mail unopened unless prohibited in the treatment plan, which requires explicit approval of the resident or legal guardian.

**71.19(8) *Visiting hours.*** Subject to reasonable scheduling restrictions, visiting policies and procedures shall permit residents to receive visits from anyone they wish. Visiting hours shall be posted.

*a.* Reasonable, regular visiting hours shall not be less than 12 hours per day and shall take into consideration the special circumstances of each visitor. A particular visitor(s) may be restricted by the facility for one of the following reasons:

- (1) The resident refuses to see the visitor(s).
- (2) The visit would not be in accordance with the treatment plan.
- (3) The visitor's behavior is unreasonably disruptive to the functioning of the facility.

*b.* Reasons for denial of visitation shall be documented in the resident's records.

**71.19(9) *Privacy.*** Space shall be provided for residents to receive visitors in comfort and privacy.

**71.19(10) *Telephone calls.*** Telephones shall be available and accessible for residents to make and receive calls with privacy. Residents who need help shall be assisted in using the telephone.

**71.19(11) *Mail.*** Arrangements shall be made to provide assistance to residents who require help in reading or sending mail.

**71.19(12) *Permission to leave premises.*** Residents shall be permitted to leave the facility and environs at reasonable times if permitted in writing by the physician or physician extender, qualified mental health professional, or administrator.

**71.19(13) *Resident activities.*** Each resident may participate in recreational activities as desired unless contraindicated for reasons documented in the resident's record.

**71.19(14) *Resident property.*** Each resident may retain and use personal clothing and possessions, as space permits, and cash and other financial instruments, provided that the use of such items is not otherwise prohibited.

*a.* The personal property shall be kept in a secure location which is convenient to the resident.

*b.* Residents shall be advised, prior to or at the time of admission, of the kinds and amounts of clothing and possessions permitted for personal use, and whether the facility will accept responsibility for maintaining these items, e.g., cleaning and laundry.

*c.* Any personal clothing or possessions retained by the facility for the resident shall be identified and recorded on admission and the record placed on the resident's chart. The facility shall be responsible for secure storage of items, and the items shall be returned to the resident promptly upon request or upon discharge from the facility.

**481—71.20(135G) Health and safety.**

**71.20(1) *Emergency care.*** Each facility shall have written policies and procedures for emergency medical and psychiatric care which shall include immediate notification by the person in charge to the

## INSPECTIONS AND APPEALS DEPARTMENT[481](cont'd)

physician or physician extender or qualified mental health professional of any accident, injury or adverse change in the resident's condition. "Immediate" for purposes of this subrule means within 24 hours.

**71.20(2) First-aid kit.** A first-aid emergency kit shall be available on each floor.

**71.20(3) Infection control.** Each facility shall have a written and implemented infection control program.

**71.20(4) Safe environment.** The licensee of a subacute care facility is responsible for the provision and maintenance of a safe environment for residents and personnel. The subacute care facility shall meet the fire and safety rules as promulgated by the state fire marshal.

**71.20(5) Disaster.** The licensee shall have a written emergency plan to be followed in the event of fire, tornado, explosion, or other emergency.

*a.* The plan shall be posted.

*b.* Training shall be provided to ensure that all employees are knowledgeable of the emergency plan. The training shall be documented.

**71.20(6) Smoking.** A subacute care facility shall follow the smokefree air Act, Iowa Code chapter 142D.

These rules are intended to implement Iowa Code chapter 135G.

**ARC 1594C****IOWA FINANCE AUTHORITY[265]****Notice of Intended Action**

**Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."**

**Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.**

Pursuant to the authority of Iowa Code sections 17A.3(1)"b," 16.5(1)"r," 16.5(1)"m," and 16.54(5) and 2014 Iowa Acts, Senate File 303, section 55, the Iowa Finance Authority proposes to amend Chapter 27, "Military Service Member Home Ownership Assistance Program," Iowa Administrative Code.

The purposes of these amendments are to bring the rules relating to the Military Home Ownership Assistance Program into compliance with 2014 Iowa Acts, Senate File 303, section 55, and to clarify related provisions of the rules.

The Authority does not intend to grant waivers under the provisions of any of these rules, other than as may be allowed under the Authority's general rules concerning waivers.

The Authority will receive written comments on the proposed amendments until 4:30 p.m. on September 23, 2014. Comments may be addressed to Mark Thompson, Iowa Finance Authority, 2015 Grand Avenue, Des Moines, Iowa 50312. Comments may also be faxed to Mark Thompson at (515)725-4901 or e-mailed to [mark.thompson@iowa.gov](mailto:mark.thompson@iowa.gov).

These amendments were also Adopted and Filed Emergency and are published herein as **ARC 1595C**. The purpose of this Notice is to solicit comment on that submission, the subject matter of which is incorporated by reference.

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

These amendments are intended to implement Iowa Code section 16.54 as amended by 2014 Iowa Acts, Senate File 303, section 55.

**ARC 1622C****NATURAL RESOURCE COMMISSION[571]****Notice of Intended Action**

**Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”**

**Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.**

Pursuant to the authority of Iowa Code section 455A.5(6)“a,” the Natural Resource Commission (Commission) hereby gives Notice of Intended Action to rescind Chapter 9, “State Migratory Waterfowl, Trout and Habitat Stamp Design Contests,” and Chapter 53, “Controlled Hunting Areas,” Iowa Administrative Code.

The proposed rescission of Chapters 9 and 53 will eliminate unused and inapplicable rules. This effort is a part of the regulatory review mandated by Iowa Code section 17A.7(2), which requires that an agency conduct an ongoing and comprehensive review of all of the agency’s rules. The goal of the review is the identification and elimination of all rules of the agency that are outdated, redundant, or inconsistent or incompatible with statute or with the agency’s own rules or those of other agencies. Chapters 9 and 53 are outdated and are no longer used.

Any person may submit written suggestions or comments on the proposed rescission of Chapters 9 and 53 through September 25, 2014. Such written material should be submitted to Jon Tack, Legal Services Bureau, Iowa Department of Natural Resources, 502 East 9th Street, Des Moines, Iowa 50319-0034; fax (515)281-8895; or by e-mail to [jon.tack@dnr.iowa.gov](mailto:jon.tack@dnr.iowa.gov). Persons who have questions may contact Jon Tack by e-mail or at (515)281-8889.

A public hearing at which persons may present their views orally or in writing will be held on September 25, 2014, from 1 to 1:30 p.m. in Conference Room 4 East of the Wallace State Office Building, 502 East 9th Street, Des Moines, Iowa.

At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subjects of the proposed rescissions. Any person who intends to attend the public hearing and has special requirements, such as those related to mobility or hearing impairments, should contact the Department to advise of any specific needs.

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

These amendments are intended to implement Iowa Code section 17A.7.

The following amendments are proposed.

- ITEM 1. Rescind and reserve **571—Chapter 9**.
- ITEM 2. Rescind and reserve **571—Chapter 53**.

## **TELECOMMUNICATIONS AND TECHNOLOGY COMMISSION, IOWA**

### **Public Notice**

NOTICE OF OFFICIAL CONTRACT LIMITATION AMOUNT ADJUSTMENT FOR  
THE PERIOD COMMENCING SEPTEMBER 1, 2014, AND ENDING AUGUST 31, 2015

In accordance with Iowa Code section 8D.11, subsection 1, paragraph “c,” the Iowa Telecommunications and Technology Commission’s (Iowa Communications Network) Acting Executive Director hereby publishes the official adjusted contract limitation amount for the period commencing on September 1, 2014, and ending on August 31, 2015, of \$2,292,458.90.

## TELECOMMUNICATIONS AND TECHNOLOGY COMMISSION, IOWA(cont'd)

The adjusted contract limitation amount becomes effective on September 1, 2014. The amount was determined by applying the formula specified in the statute. According to the federal Department of Labor, Bureau of Labor Statistics, the consumer price index for all urban consumers increased 2.1 percent from June 2013 to June 2014.

Pursuant to Iowa Code section 8D.11, subsection 1, paragraph “c,” this notice is exempt from the rule-making process in Iowa Code chapter 17A.

Questions with respect to this notice should be directed to:

Ric Lumbar, Acting Executive Director  
Iowa Telecommunications and Technology Commission  
400 E. 14th Street  
Des Moines, Iowa 50319  
Telephone: (515)725-4910  
E-mail: [ric.lumbar@iowa.gov](mailto:ric.lumbar@iowa.gov)

**ARC 1601C****TRANSPORTATION DEPARTMENT[761]****Notice of Intended Action**

**Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.**

Pursuant to the authority of Iowa Code sections 307.10 and 307.12, the Iowa Department of Transportation hereby gives Notice of Intended Action to amend Chapter 602, “Classes of Driver’s Licenses,” Chapter 605, “License Issuance,” Chapter 607, “Commercial Driver Licensing,” and Chapter 630, “Nonoperator’s Identification,” Iowa Administrative Code.

The proposed amendments update the Department’s rules to conform to legislative changes that increased the standard terms for an Iowa driver’s license or nonoperator’s identification card from five years to eight years; provided for a transition from five-year to eight-year licenses in which the Department issues licenses with terms of five, six, seven and eight years to equalize renewal volumes over succeeding eight-year periods; increased the age at which drivers receive two-year licenses from 70 to 72; eliminated non-expiring nonoperator’s identification cards for persons age 70 or over; increased the fee to upgrade a license to include a motorcycle from \$1 per year to \$2 per year; increased the fees for duplicate licenses and nonoperator’s identification cards from \$1 to \$3 respectively for involuntary (lost, stolen or destroyed) and voluntary (duplicates for reasons such as name changes, address changes, etc.) duplicates to a flat fee of \$10; waived the fee for a nonoperator’s identification card issued to a person who voluntarily surrendered the person’s license in lieu of suspension for incapability; and allowed veterans honorably discharged from the United States armed forces to add a veteran designation on their driver’s licenses or nonoperator’s identification cards with approval from the Iowa Department of Veterans Affairs. The proposed amendments also add language that conforms to existing practice and statutory authority regarding the addition of symbols or statements on driver’s licenses and nonoperator’s identification cards indicating the presence of a medical condition, that the licensee is a donor under the uniform anatomical gift law, that the licensee has in effect a medical advance directive, or that the licensee is hearing impaired or deaf.

These rules do not provide for waivers. Any person who believes that the person’s circumstances meet the statutory criteria for a waiver may petition the Department for a waiver under 761—Chapter 11.

Any person or agency may submit written comments concerning these proposed amendments or may submit a written request to make an oral presentation. The comments or request shall:

1. Include the name, address, and telephone number of the person or agency authoring the comments or request.

## TRANSPORTATION DEPARTMENT[761](cont'd)

2. Reference the number and title of the proposed rule, as given in this Notice, that is the subject of the comments or request.

3. Indicate the general content of a requested oral presentation.

4. Be addressed to Tracy George, Rules Administrator, Iowa Department of Transportation, Office of Policy and Legislative Services, 800 Lincoln Way, Ames, Iowa 50010; Internet e-mail address: [tracy.george@dot.iowa.gov](mailto:tracy.george@dot.iowa.gov).

5. Be received by the Office of Policy and Legislative Services no later than September 23, 2014.

A meeting to hear requested oral presentations is scheduled for Thursday, September 25, 2014, at 10 a.m. at the Iowa Department of Transportation's Motor Vehicle Division offices located at 6310 SE Convenience Boulevard, Ankeny, Iowa.

The meeting will be canceled without further notice if no oral presentation is requested.

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

These amendments are intended to implement Iowa Code sections 321.189, 321.190, 321.191, 321.195 and 321.196 and 2013 Iowa Acts, chapter 104, section 2.

The following amendments are proposed.

ITEM 1. Amend subrule 602.11(1) as follows:

**602.11(1)** *Validity and issuance.*

a. No change.

b. The license is issued for either two years or ~~five~~ eight years.

(1) A qualified applicant who is at least 17 years, 11 months of age but not yet ~~70~~ 72 years of age shall be issued a ~~five-year~~ an eight-year license. However, the expiration date of the license issued shall not exceed the licensee's 74th birthday.

(2) A two-year license shall be issued to a qualified applicant who is under 17 years, 11 months of age or who is ~~70~~ 72 years of age or older.

(3) No change.

ITEM 2. Amend subrule 602.12(1) as follows:

**602.12(1)** *Validity and issuance.*

a. and b. No change.

c. The license is issued for either two years or ~~five~~ eight years.

(1) A qualified applicant who is at least 18 years of age but not yet ~~70~~ 72 years of age shall be issued a ~~five-year~~ an eight-year license. However, the expiration date of the license issued shall not exceed the licensee's 74th birthday.

(2) A two-year license shall be issued to a qualified applicant who is ~~70~~ 72 years of age or older.

(3) No change.

~~d. Rescinded IAB 11/8/06, effective 12/13/06.~~

ITEM 3. Amend paragraph **602.13(1)"b"** as follows:

b. The license is issued for either two years or ~~five~~ eight years.

(1) A qualified applicant who is at least 17 years, 11 months of age but not yet ~~70~~ 72 years of age shall be issued a ~~five-year~~ an eight-year license. However, the expiration date of the license issued shall not exceed the licensee's 74th birthday.

(2) A two-year license shall be issued to a qualified applicant who is under 17 years, 11 months of age or who is ~~70~~ 72 years of age or older.

(3) No change.

ITEM 4. Adopt the following **new** rule 761—602.14(321):

**761—602.14(321) Transition from five-year to eight-year licenses.** During the period January 1, 2014, to December 31, 2018, the department shall issue qualified applicants otherwise eligible for an eight-year license a five-year, six-year, seven-year, or eight-year license, subject to all applicable limitations for age and ability. The applicable period shall be randomly assigned to the applicant by the department's computerized issuance system based on a distribution formula intended to spread renewal volumes as

## TRANSPORTATION DEPARTMENT[761](cont'd)

equally as practical over the eight-year period beginning January 1, 2019, and ending December 31, 2026.

This rule is intended to implement Iowa Code section 321.196 and 2013 Iowa Acts, chapter 104, section 2.

ITEM 5. Adopt the following **new** subrule 605.2(7):

**605.2(7) Voluntary markings.** Upon the request of the licensee, the department shall indicate on the driver's license the presence of a medical condition, that the licensee is a donor under the uniform anatomical gift law, that the licensee has in effect a medical advance directive, that the licensee is hearing impaired or deaf, or that the licensee is a veteran. To be eligible for a veteran designation, the licensee must be an honorably discharged veteran of the armed forces of the United States. A licensee who requests a veteran designation shall submit Form 432035, properly completed by the licensee and a designee of the Iowa department of veterans affairs.

ITEM 6. Amend rule **761—605.2(321)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code ~~section~~ sections 142C.3 and 321.189, the REAL ID Act of 2005 (49 U.S.C. Section 30301 note), and 6 CFR Part 37.

ITEM 7. Amend rule 761—605.11(321) as follows:

**761—605.11(321) Duplicate license.**

**605.11(1) Lost, stolen or destroyed license.** To replace a valid license that is lost, stolen or destroyed, the licensee shall ~~submit Form 430052 and shall~~ comply with the requirements of 761—601.5(321) and pay the replacement fee. The replacement fee is \$3.

**605.11(2) Voluntary replacement.** The department shall issue a duplicate of a valid license to an eligible licensee if the license is surrendered to the department and the ~~\$1 voluntary~~ replacement fee is paid. Voluntary replacement includes but is not limited to:

*a. to i.* No change.

*j.* Replacement to add a veteran designation to the license. To be eligible for a veteran designation, the licensee must be an honorably discharged veteran of the armed forces of the United States. A licensee who requests a veteran designation shall submit Form 432035, properly completed by the licensee and a designee of the Iowa department of veterans affairs.

**605.11(3) Fee.** The fee to replace a license is \$10. Anything in this rule, notwithstanding the fee for replacement of a license under paragraphs 605.11(2) "f" and 605.11(2) "g," shall be as set forth in Iowa Code subsection 321.189(6).

This rule is intended to implement Iowa Code sections 321.189, 321.195 and 321.208, the REAL ID Act of 2005 (49 U.S.C. Section 30301 note), and 6 CFR Part 37.

ITEM 8. Amend rule 761—605.20(321) as follows:

**761—605.20(321) Fee adjustment for upgrading license.** The fee for upgrading a driver's license shall be computed on a full-year basis. The fee is charged for each year or part of a year between the date of the change and the expiration date on the license.

**605.20(1)** The fee to upgrade a driver's license from one class to another is determined by computing the difference between the current license fee and the new license fee as follows:

*a. and b.* No change.

*c.* Converting Class M to noncommercial Class C with a motorcycle endorsement—~~\$1~~ \$2 one-time fee.

**605.20(2)** The fee to add a privilege to a driver's license is computed per year of new license validity as follows:

## TRANSPORTATION DEPARTMENT[761](cont'd)

Noncommercial Class C (full privileges from a restricted Class C)	\$4 per year
Motorized bicycle	\$4 per year
Minor's restricted license	\$4 per year
Minor's school license	\$4 per year
Motorcycle instruction permit	\$1 <u>\$2</u> per year
Motorcycle endorsement	\$1 <u>\$2</u> per year

This rule is intended to implement Iowa Code sections 321.189 and 321.191.

ITEM 9. Amend rule 761—607.16(321) as follows:

**761—607.16(321) Commercial driver's license (CDL).**

**607.16(1)** No change.

**607.16(2) Validity.**

*a. to d.* No change.

*e.* A commercial driver's license valid for ~~five~~ eight years shall be issued to a qualified applicant who is at least 18 years of age but not yet ~~70~~ 72 years of age. However, the expiration date of the license issued shall not exceed the licensee's 74th birthday.

*f.* A commercial driver's license valid for two years shall be issued to a qualified applicant ~~70~~ 72 years of age or older. A two-year license may also be issued, at the discretion of the department, to an applicant whose license is restricted due to vision or other physical disabilities.

*g. and h.* No change.

**607.16(3)** No change.

**607.16(4) Transition from five-year to eight-year licenses.** During the period January 1, 2014, to December 31, 2018, the department shall issue qualified applicants otherwise eligible for an eight-year license a five-year, six-year, seven-year, or eight-year license, subject to all applicable limitations for age and ability. The applicable period shall be randomly assigned to the applicant by the department's computerized issuance system based on a distribution formula intended to spread renewal volumes as equally as practical over the eight-year period beginning January 1, 2019, and ending December 31, 2026.

This rule is intended to implement Iowa Code sections 321.177, 321.182, 321.188, 321.189, and 321.196 and 2013 Iowa Acts, chapter 104, section 2.

ITEM 10. Amend rule 761—630.2(321) as follows:

**761—630.2(321) Application and issuance.**

**630.2(1) and 630.2(2)** No change.

**630.2(3)** The nonoperator's identification card shall be coded for identification only, as explained on the reverse side of the card. The county number shall indicate the county of residence. The card shall expire ~~five~~ eight years from the date of issue ~~if the applicant is under the age of 70~~. A card issued to a person who is a foreign national with temporary lawful status shall be issued only for the length of time the person is authorized to be present in the United States as verified by the department, not to exceed two years. However, if the person's lawful status as verified by the department has no expiration date, the card shall be issued for a period of no longer than one year.

**630.2(4)** Upon the request of the cardholder, the department shall indicate on the nonoperator's identification card the presence of a medical condition, that the cardholder is a donor under the uniform anatomical gift law, ~~or~~ that the cardholder has in effect a medical advance directive, ~~that the cardholder is hearing impaired or deaf, or that the cardholder is a veteran.~~ To be eligible for a veteran designation, the cardholder must be an honorably discharged veteran of the armed forces of the United States. A cardholder who requests a veteran designation shall submit Form 432035, properly completed by the licensee and a designee of the Iowa department of veterans affairs.

TRANSPORTATION DEPARTMENT[761](cont'd)

**630.2(5)** The issuance fee is ~~\$5~~ \$8. However, no issuance fee shall be charged for a person whose license has been suspended for incapability pursuant to rule 761—615.14(321)~~), or~~ who has been denied further licensing in lieu of a suspension for incapability pursuant to rule 761—615.4(321)~~), or~~ who voluntarily surrenders the person's license in lieu of suspension for incapability pursuant to rule 761—615.14(321).

**630.2(6) to 630.2(11)** No change.

ITEM 11. Amend rule 761—630.3(321) as follows:

**761—630.3(321) Duplicate card.**

**630.3(1) *Lost, stolen or destroyed card.*** To replace a nonoperator's identification card that is lost, stolen or destroyed, the cardholder shall ~~submit Form 430052 and shall~~ comply with the requirements of 761—601.5(321) and pay the replacement fee. ~~The replacement fee is \$3.~~

**630.3(2) *Voluntary replacement.*** To voluntarily replace a nonoperator's identification card, the cardholder shall surrender to the department the card to be replaced. The reasons a card may be voluntarily replaced and any additional supporting documentation required are the same as those listed in 761—paragraphs 605.11(2) "a" to "~~i.~~""j." ~~The fee for voluntary replacement is \$1.~~

**630.3(3) *Fee.*** The fee to replace a nonoperator's identification card is the same amount as the fee required to replace a driver's license. See 761—subrule 605.11(3).

**ARC 1613C**

**TREASURER OF STATE[781]**

**Notice of Intended Action**

**Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."**

**Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.**

Pursuant to the authority of Iowa Code section 12B.10C, the Treasurer of State hereby gives Notice of Intended Action to amend Chapter 15, "Required Public Funds Custodial Agreement Provisions," Iowa Administrative Code.

Iowa Code section 12B.10C directs the Treasurer of State to adopt rules in consultation with the Attorney General. These proposed amendments are necessary to address stakeholder comments.

Any interested person may make written suggestions or comments on these amendments on or before September 23, 2014. Such written comments or suggestions should be directed to Stefanie Devin, Iowa Treasurer of State, 1007 E. Grand Avenue, Des Moines, Iowa 50319. E-mail may be sent to [stefanie.devin@iowa.gov](mailto:stefanie.devin@iowa.gov).

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

These amendments are intended to implement Iowa Code chapter 12B.

The following amendments are proposed.

ITEM 1. Amend subrule 15.1(3) as follows:

**15.1(3)** A public unit may only enter into a public funds custodial agreement if the custodian is a ~~state or national bank that is located in the state of Iowa and has a safekeeping or trust department~~ the trust or safekeeping department of a national or state bank located in the state of Iowa that lawfully possesses and exercises fiduciary powers under applicable federal laws or the laws of the state of Iowa. Notwithstanding the foregoing, the treasurer of state may exercise its discretion under Iowa Code section 12C.4 to enter into public funds custodial agreements with a custodian located outside the state of Iowa. Each public unit that enters into a public funds custodial agreement shall require the inclusion in the public funds custodial agreement those provisions contained in rule 781—15.2(12B) of this chapter or substantially equivalent provisions.

TREASURER OF STATE[781](cont'd)

ITEM 2. Amend rule 781—15.2(12B) as follows:

**781—15.2(12B) Required provisions for inclusion in public funds custodial agreements.** All public funds custodial agreements shall be in writing and shall include the following provisions:

**15.2(1)** The custodian shall represent and warrant that it lawfully possesses and exercises fiduciary powers under applicable federal laws or the laws of the state of Iowa, unless such custodian is located out of state and is used by the treasurer of state for purposes permitted in Iowa Code section 12C.4, and that it has the resources and expertise to act as the custodian of public funds or any security or document of ownership or title evidencing public funds investments and to perform its responsibilities under the public funds custodial agreement.

**15.2(2)** The scope of duties and services to be performed by the custodian shall be described in detail satisfactory to the public unit and shall include, as applicable, custodial, settlement, collection of income and investment proceeds, reporting, and securities valuation services.

**15.2(3)** The custodian shall agree to provide the public unit with written confirmation of its custody, on behalf of the public unit, of all assets subject to the public funds custodial agreement.

**15.2(4)** The custodian shall agree to segregate the public fund's assets from the custodian's own assets and to maintain records adequate to describe the public unit's ownership of or beneficial interest in the assets held by the custodian.

**15.2(5)** ~~The custodian shall agree to maintain and make available to the public unit, its employees and its designees accurate, current, and complete records that sufficiently and properly document the custodian's performance under the public funds custodial agreement, including records that document all fees and other amounts charged and all transactions occurring during the term of the agreement. The custodian shall, at a minimum, agree to allow the public unit or its designees, at no charge, to access, examine and audit any directly pertinent records of the custodian relating to or created as a result of the public funds custodial agreement. The custodian shall agree to maintain adequate records regarding a description of the assets, all receipts, deliveries and locations of assets, together with a current inventory thereof, all purchases and sales, all receipts and disbursements of cash and all debits and credits pertaining to transactions relating to the assets, including but not limited to interest payments. The custodian shall agree to conduct periodic inspections in order to verify the accuracy of the inventory, including the securities, if any, held by a subcustodian.~~

**15.2(6)** ~~If the custodian proposes to use a subcustodian to perform any services in connection with the public funds custodial agreement, the custodian shall agree to take appropriate action to recover losses incurred by the public unit as a result of the acts or omissions of any subcustodian. The custodian shall agree that all records of investment transactions relating to the public funds custodial agreement and the services provided thereunder, regardless of who performs the services, shall be considered records of the public unit and open to inspection and examination by the public unit, its employees and its designees. To the extent records of investment transactions are maintained by affiliates of the custodian, the custodian shall agree to be responsible to obtain any such records that are in the possession of its affiliates upon reasonable request of the public unit. The custodian shall agree to make all records of investment transactions relating to the public funds custodial agreement and the services provided thereunder available upon reasonable request for inspection and audit by the public unit, its employees or designees, and to allow these records or excerpts of these records to be copied and removed to facilitate the audit or to comply with public records requirements.~~

**15.2(7)** ~~The custodian shall settle all transactions on a payment versus delivery settlement basis except those specifically exempted in the agreement or unless such settlement is not market practice or unless otherwise directed by the public unit. If the custodian proposes to use an affiliated subcustodian or other affiliated agent to perform any services in connection with the public funds custodial agreement, the custodian shall agree that it shall be responsible for the acts and omissions of such affiliates as though the acts and omissions of the affiliates were the acts and omissions of the custodian.~~

**15.2(8)** The custodian shall agree that it will receive all assets purchased by or for the public unit from the persons through or from whom the same were purchased, and only upon receipt thereof (delivery versus payment basis) pay, out of the assets held on account of the public unit, the total amount payable

TREASURER OF STATE[781](cont'd)

for the purchase as set forth in the instructions received by the custodian. The custodian shall agree to secure possession of all investment instruments that are the subject of or are the underlying obligations for any repurchase agreement.

**15.2(9)** The custodian shall agree that it will transfer assets for sale pursuant to instructions delivered to the custodian only upon receipt of the total amount payable to the public unit in connection with the settlement of the transaction, provided that the same conforms to the total amount payable to the public unit as shown in the instructions with respect to such sale. No assets may be delivered out of the account of the public unit without full payment (no “free deliveries” of investment securities shall be permitted).

**15.2(8)** **15.2(10)** If a public unit has engaged an investment advisor or investment manager, the public funds custodial agreement must limit the authority of the investment manager or advisor to authorizing a sale or purchase of an investment on a delivery versus payment basis pursuant to an instruction procedure which is consistent with the requirements of the public funds custodial agreement and the internal control policies of the public unit. The public funds custodial agreement shall not permit an investment manager or investment advisor to deliver, transfer, or move cash or securities to another account, location or entity.

**15.2(9)** **15.2(11)** The delivery, transfer or movement of cash or securities held in custody for the public unit (except for trades on a delivery versus payment basis) shall only be made pursuant to instructions given to the custodian by the public unit, its employees or designees, consistent with the internal controls established by the public unit.

**15.2(10)** **15.2(12)** The public funds custodial agreement shall specify in satisfactory detail the procedures for instructions to be furnished to the custodian in connection with the sales or purchases of securities and the delivery, transfer or movement of cash or securities held in the custody account. The instruction provisions must be consistent with the internal control policies established by the public unit. These procedures must specify the individual or individuals authorized to issue instructions, the scope of their authority, require current specimen signatures of authorized individuals to be maintained by the custodian and require written instructions to be furnished to the custodian. If oral instructions are permitted, the procedures or protocol for them must be specified in detail and must address verification and confirmation procedures and follow-up written instructions required by the custodian and the public unit.

**15.2(11)** **15.2(13)** The public funds custodial agreement shall require the custodian to furnish a monthly report describing in satisfactory detail the inventory of the account and transaction history during the preceding month and other reports at such times as may be adequate to satisfy the public unit's internal control procedures for reconciliation. In addition, the custodian shall, to the extent not prohibited by law, provide written notice to the public unit (~~within a time period acceptable to the public unit~~) within 30 days of the custodian's receipt of an audit by an independent or internal auditor or regulatory authority which indicates that there is a material weakness in the custodian's internal control structure or receipt of a regulatory order or sanction which relates to the type of work performed under the public funds custodial agreement. The custodian shall include in the written notice a detailed description of the comment or sanction and any curative measures which the custodian proposes to take in response thereto.

**15.2(12)** **15.2(14)** The public funds custodial agreement shall not provide for the compensation of the custodian based on investment performance.

**15.2(13)** **15.2(15)** The custodian shall agree to comply with all applicable federal, state, and local laws and rules when performing within the scope of the public funds custodial agreement.

**15.2(14)** **15.2(16)** At a minimum, the custodian shall agree to exercise the standard of care expected of a professional custodian of public funds in holding, maintaining and servicing the public fund's assets and cash and in performing the custodian's duties and obligations under the public funds custodial agreement.

## USURY

In accordance with the provisions of Iowa Code section 535.2, subsection 3, paragraph “a,” the Superintendent of Banking has determined that the maximum lawful rate of interest shall be:

September 1, 2013 — September 30, 2013	4.50%
October 1, 2013 — October 31, 2013	4.75%
November 1, 2013 — November 30, 2013	4.75%
December 1, 2013 — December 31, 2013	4.50%
January 1, 2014 — January 31, 2014	4.75%
February 1, 2014 — February 28, 2014	5.00%
March 1, 2014 — March 31, 2014	4.75%
April 1, 2014 — April 30, 2014	4.75%
May 1, 2014 — May 31, 2014	4.75%
June 1, 2014 — June 30, 2014	4.75%
July 1, 2014 — July 31, 2014	4.50%
August 1, 2014 — August 31, 2014	4.50%
September 1, 2014 — September 30, 2014	4.50%

## ARC 1600C

### UTILITIES DIVISION[199]

#### Notice of Intended Action

**Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”**

**Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.**

Pursuant to Iowa Code sections 17A.4 and 476.1, Iowa Code chapter 476C, and 2014 Iowa Acts, Senate File 2343, the Utilities Board (Board) gives notice that on August 12, 2014, the Board issued an order in Docket No. RMU-2014-0005, In re: Renewable Energy Tax Credits, “Order Commencing Rule Making.” The Board is noticing for public comment proposed amendments to 199 IAC 15.19 and 15.21. The proposed amendments reflect legislative changes to Iowa Code chapter 476C contained in 2014 Iowa Acts, Senate File 2343, which was signed by the Governor on May 30, 2014, and became effective July 1, 2014.

The proposed changes to 199 IAC 15.19 and 15.21 are in response to legislative changes contained in 2014 Iowa Acts, Senate File 2343. The legislation amended Iowa Code chapter 476C to extend an eligible facility’s in-service deadline by two years, from January 1, 2015, to January 1, 2017. The Board’s rules must be changed to reflect this amendment and also to extend the last year for tax credit issuance by two years, from year-end 2014 to year-end 2026.

2014 Iowa Acts, Senate File 2343, also now allows a cogeneration facility incorporated within or associated with an ethanol plant to receive tax credits for heat and power generation. The cogeneration facility is no longer limited to using natural gas as a fuel but may also use methane or landfill gas or biogas, and the facility need not reapply for tax credit eligibility approval if it switches fuels. This legislative change does not require a change to the Board’s rules.

Pursuant to Iowa Code section 17A.4(1)“a” and “b,” any interested person may file a written statement of position pertaining to the proposed amendments. The statement must be filed on or before September 23, 2014. The statement should be filed electronically through the Board’s Electronic

## UTILITIES DIVISION[199](cont'd)

Filing System (EFS). Instructions for making an electronic filing can be found on the EFS Web site at <http://efs.iowa.gov>. Any person who does not have access to the Internet may file comments on paper pursuant to 199 IAC 14.4(5). An original and ten copies of paper comments shall be filed. Both electronic and written filings shall comply with the format requirements in 199 IAC 2.2(2) and clearly state the author's name and address and make specific reference to this docket. All paper communications should be directed to the Executive Secretary, Utilities Board, 1375 E. Court Avenue, Room 69, Des Moines, Iowa 50319-0069.

Because the changes to the rules merely extend the time limits for in-service and tax credit issuance by the two years provided for in 2014 Iowa Acts, Senate File 2343, a public hearing on the proposed amendments will not be scheduled. A public hearing may be requested pursuant to the procedures set forth in Iowa Code section 17A.4(1)“b.”

The Board does not find it necessary to propose a separate waiver provision in this rule making. While the Board has a general waiver provision in 199 IAC 1.3, the amendments in 2014 Iowa Acts, Senate File 2343, did not give the Board the authority to waive the statutory deadlines so no waiver provision for these rules is necessary.

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

These amendments are intended to implement Iowa Code section 476.1 and chapter 476C and 2014 Iowa Acts, Senate File 2343.

The following amendments are proposed.

ITEM 1. Amend subparagraph **15.19(1)“f”(4)** as follows:

(4) The date the facility is expected to be placed in service; that is, placed in service on or after July 1, 2005, but before January 1, ~~2015~~ 2017, for eligibility under Iowa Code chapter 476C; and

ITEM 2. Amend rule 199—15.21(476C), introductory paragraph, as follows:

**199—15.21(476C) Applications for renewable energy tax credits under Iowa Code chapter 476C.** The renewable energy tax credits equal 1.5 cents per kilowatt-hour of electricity, or 44 cents per 1,000 standard cubic feet of hydrogen fuel, or \$4.50 per 1 million British thermal units of methane gas or other biogas used to generate electricity, or \$4.50 per 1 million British thermal units of heat for a commercial purpose, generated by eligible renewable energy facilities under 199—15.19(476C), which is sold or used for on-site consumption by the owners, for tax years beginning on or after July 1, 2006. For renewable energy that is sold, either the owners of an eligible facility or a designated purchaser of renewable energy from the facility may apply for renewable energy tax credits for up to ten tax years following the date the facility is placed in service. For renewable energy used for on-site consumption, the owners of an eligible facility may apply for renewable energy tax credits for up to ten tax years following the date the facility is placed in service. Renewable energy tax credits will not be issued for renewable energy sold or used for on-site consumption after December 31, ~~2024~~ 2026. For purposes of this rule, renewable energy used for on-site consumption means any renewable energy produced by the facility and not sold.

ITEM 3. Amend subparagraph **15.21(1)“a”(6)** as follows:

(6) The date that the eligible facility was placed in service (that is, between July 1, 2005, and January 1, ~~2015~~ 2017).

## ARC 1610C

## HUMAN SERVICES DEPARTMENT[441]

## Adopted and Filed Emergency After Notice

Pursuant to the authority of Iowa Code section 249A.4 and 2014 Iowa Acts, Senate File 2320, section 1, the Department of Human Services amends Chapter 78, “Amount, Duration, and Scope of Medical and Remedial Services,” and Chapter 79, “Other Policies Relating to Providers of Medical and Remedial Care,” Iowa Administrative Code.

Subrule 79.9(7) went into effect January 1, 2014, to prohibit a legal representative from being a paid provider of Medicaid-funded services. 2014 Iowa Acts, Senate File 2320, section 1, directs the Department to adopt rules allowing a legal representative to be paid for providing services under a home- and community-based services waiver consumer-directed attendant care (CDAC) agreement or under a consumer choices option (CCO) employment agreement. These amendments will allow a legal representative to be a paid provider of service when providing individual CDAC or CCO services to a member the representative legally represents. These amendments also set the following service delivery parameters for the legal representative when the representative is a paid provider, as required by 2014 Iowa Acts, Senate File 2320:

- Ensuring wages that are fair and reasonable for the service being provided;
- Limiting the amount of service to 40 hours per week (i.e., no overtime pay allowed); and
- Requiring that a contingency plan be in place to ensure services will be provided when the legal representative is unavailable to provide scheduled services due to illness or other unexpected event.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 1510C** on June 25, 2014. The Department received no comments during the comment period. These amendments are identical to those published under Notice of Intended Action.

Pursuant to Iowa Code section 17A.5(2)“b”(2), the Department finds that the normal effective date of these amendments, 35 days after publication, should be waived and the amendments should be made effective August 13, 2014. The normal effective date can be waived since these amendments will confer a benefit on the public. These amendments will allow legal representatives to act and be paid as CDAC and CCO service providers.

The Council on Human Services adopted these amendments on August 13, 2014.

These amendments do not provide for waivers in specified situations because requests for the waiver of any rule may be submitted under the Department’s general rule on exceptions at 441—1.8(17A,217).

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

These amendments are intended to implement Iowa Code section 249A.4 and 2014 Iowa Acts, Senate File 2320.

These amendments became effective August 13, 2014.

The following amendments are adopted.

ITEM 1. Amend paragraph **78.34(7)“a”** as follows:

*a. Service planning.*

(1) The member, parent, guardian, or attorney in fact under a durable power of attorney for health care shall:

(1) 1. Select the individual or agency that will provide the components of the attendant care services.

(2) 2. Determine with the selected provider what components of attendant care services the provider shall perform, subject to confirmation by the service worker or case manager that those components are consistent with the assessment and are authorized covered services.

(3) 3. Complete, sign, and date Form 470-3372, HCBS Consumer-Directed Attendant Care Agreement, to indicate the frequency, scope, and duration of services (a description of each service component and the time agreed on for that component). The case manager or service worker and provider shall also sign the agreement.

## HUMAN SERVICES DEPARTMENT[441](cont'd)

~~(4)~~ 4. Submit the completed agreement to the service worker or case manager. The agreement shall be part of the member's service plan and shall be kept in the member's records, in the provider's records, and in the service worker's or case manager's records. Any service component that is not listed in the agreement shall not be payable.

(2) Whenever a legal representative acts as a provider of consumer-directed attendant care as allowed by 441—paragraph 79.9(7) “b,” the following shall apply:

1. The payment rate for the legal representative must be based on the skill level of the legal representative and may not exceed the median statewide reimbursement rate for the service unless the higher rate receives prior approval from the department;

2. The legal representative may not be paid for more than 40 hours of service per week; and

3. A contingency plan must be established in the member's service plan to ensure service delivery in the event the legal representative is unable to provide services due to illness or other unexpected event.

ITEM 2. Amend paragraph **78.34(13)“g”** as follows:

*g. Budget authority.* The member shall have authority over the individual budget authorized by the department to perform the following tasks:

(1) No change.

(2) Determine the amount to be paid for services. Reimbursement rates shall be consistent with rates paid by others in the community for the same or substantially similar services. Reimbursement rates for the independent support broker and the financial management service are subject to the limits in 441—subrule 79.1(2). The reimbursement rate for a member's legal representative who provides services to the member as allowed by 441—paragraph 79.9(7) “b” must be based on the skill level of the legal representative and may not exceed the median statewide reimbursement rate for the service unless the higher rate receives prior approval from the department.

(3) Schedule the provision of services. Whenever a member's legal representative provides services to the member as allowed by 441—paragraph 79.9(7) “b,” the legal representative may not be paid for more than 40 hours of service per week and a contingency plan must be established in the member's service plan to ensure service delivery in the event the legal representative is unable to provide services due to illness or other unexpected event.

(4) and (5) No change.

ITEM 3. Amend paragraph **78.37(15)“a”** as follows:

*a. Service planning.*

(1) The member, parent, guardian, or attorney in fact under a durable power of attorney for health care shall:

~~(1)~~ 1. Select the individual, agency or assisted living facility that will provide the components of the attendant care services.

~~(2)~~ 2. Determine with the selected provider what components of attendant care services the provider shall perform, subject to confirmation by the service worker or case manager that those components are consistent with the assessment and are authorized covered services.

~~(3)~~ 3. Complete, sign, and date Form 470-3372, HCBS Consumer-Directed Attendant Care Agreement, to indicate the frequency, scope, and duration of services (a description of each service component and the time agreed on for that component). The case manager or service worker and provider shall also sign the agreement.

~~(4)~~ 4. Submit the completed agreement to the service worker or case manager. The agreement shall be part of the member's service plan and shall be kept in the member's records, in the provider's records, and in the service worker's or case manager's records. Any service component that is not listed in the agreement shall not be payable.

~~(5)~~ (2) Assisted living agreements with Iowa Medicaid members must specify the services to be considered covered under the assisted living occupancy agreement and those CDAC services to be covered under the elderly waiver. The funding stream for each service must be identified.

(3) Whenever a legal representative acts as a provider of consumer-directed attendant care as allowed by 441—paragraph 79.9(7) “b,” the following shall apply:

## HUMAN SERVICES DEPARTMENT[441](cont'd)

1. The payment rate for the legal representative must be based on the skill level of the legal representative and may not exceed the median statewide reimbursement rate for the service unless the higher rate receives prior approval from the department;

2. The legal representative may not be paid for more than 40 hours of service per week; and

3. A contingency plan must be established in the member's service plan to ensure service delivery in the event the legal representative is unable to provide services due to illness or other unexpected event.

ITEM 4. Amend paragraph **78.37(16)“g”** as follows:

*g. Budget authority.* The member shall have authority over the individual budget authorized by the department to perform the following tasks:

(1) No change.

(2) Determine the amount to be paid for services. Reimbursement rates shall be consistent with rates paid by others in the community for the same or substantially similar services. Reimbursement rates for the independent support broker and the financial management service are subject to the limits in 441—subrule 79.1(2). The reimbursement rate for a member's legal representative who provides services to the member as allowed by 441—paragraph 79.9(7)“b” must be based on the skill level of the legal representative and may not exceed the median statewide reimbursement rate for the service unless the higher rate receives prior approval from the department.

(3) Schedule the provision of services. Whenever a member's legal representative provides services to the member as allowed by 441—paragraph 79.9(7)“b,” the legal representative may not be paid for more than 40 hours of service per week and a contingency plan must be established in the member's service plan to ensure service delivery in the event the legal representative is unable to provide services due to illness or other unexpected event.

(4) and (5) No change.

ITEM 5. Amend paragraph **78.38(8)“a”** as follows:

*a. Service planning.*

(1) The member, parent, guardian, or attorney in fact under a durable power of attorney for health care shall:

(1) 1. Select the individual or agency that will provide the components of the attendant care services.

(2) 2. Determine with the selected provider what components of attendant care services the provider shall perform, subject to confirmation by the service worker or case manager that those components are consistent with the assessment and are authorized covered services.

(3) 3. Complete, sign, and date Form 470-3372, HCBS Consumer-Directed Attendant Care Agreement, to indicate the frequency, scope, and duration of services (a description of each service component and the time agreed on for that component). The case manager or service worker and provider shall also sign the agreement.

(4) 4. Submit the completed agreement to the service worker or case manager. The agreement shall be part of the member's service plan and shall be kept in the member's records, in the provider's records, and in the service worker's or case manager's records. Any service component that is not listed in the agreement shall not be payable.

(2) Whenever a legal representative acts as a provider of consumer-directed attendant care as allowed by 441—paragraph 79.9(7)“b,” the following shall apply:

1. The payment rate for the legal representative must be based on the skill level of the legal representative and may not exceed the median statewide reimbursement rate for the service unless the higher rate receives prior approval from the department;

2. The legal representative may not be paid for more than 40 hours of service per week; and

3. A contingency plan must be established in the member's service plan to ensure service delivery in the event the legal representative is unable to provide services due to illness or other unexpected event.

ITEM 6. Amend paragraph **78.38(9)“g”** as follows:

*g. Budget authority.* The member shall have authority over the individual budget authorized by the department to perform the following tasks:

## HUMAN SERVICES DEPARTMENT[441](cont'd)

(1) No change.

(2) Determine the amount to be paid for services. Reimbursement rates shall be consistent with rates paid by others in the community for the same or substantially similar services. Reimbursement rates for the independent support broker and the financial management service are subject to the limits in 441—subrule 79.1(2). The reimbursement rate for a member’s legal representative who provides services to the member as allowed by 441—paragraph 79.9(7) “b” must be based on the skill level of the legal representative and may not exceed the median statewide reimbursement rate for the service unless the higher rate receives prior approval from the department.

(3) Schedule the provision of services. Whenever a member’s legal representative provides services to the member as allowed by 441—paragraph 79.9(7) “b,” the legal representative may not be paid for more than 40 hours of service per week and a contingency plan must be established in the member’s service plan to ensure service delivery in the event the legal representative is unable to provide services due to illness or other unexpected event.

(4) and (5) No change.

ITEM 7. Amend paragraph **78.41(8)“a”** as follows:

*a. Service planning.*

(1) The member, parent, guardian, or attorney in fact under a durable power of attorney for health care shall:

~~(1) 1.~~ Select the individual or agency that will provide the components of the attendant care services.

~~(2) 2.~~ Determine with the selected provider what components of attendant care services the provider shall perform, subject to confirmation by the service worker or case manager that those components are consistent with the assessment and are authorized covered services.

~~(3) 3.~~ Complete, sign, and date Form 470-3372, HCBS Consumer-Directed Attendant Care Agreement, to indicate the frequency, scope, and duration of services (a description of each service component and the time agreed on for that component). The case manager or service worker and provider shall also sign the agreement.

~~(4) 4.~~ Submit the completed agreement to the service worker or case manager. The agreement shall be part of the member’s service plan and shall be kept in the member’s records, in the provider’s records, and in the service worker’s or case manager’s records. Any service component that is not listed in the agreement shall not be payable.

(2) Whenever a legal representative acts as a provider of consumer-directed attendant care as allowed by 441—paragraph 79.9(7) “b,” the following shall apply:

1. The payment rate for the legal representative must be based on the skill level of the legal representative and may not exceed the median statewide reimbursement rate for the service unless the higher rate receives prior approval from the department;

2. The legal representative may not be paid for more than 40 hours of service per week; and

3. A contingency plan must be established in the member’s service plan to ensure service delivery in the event the legal representative is unable to provide services due to illness or other unexpected event.

ITEM 8. Amend paragraph **78.41(15)“g”** as follows:

*g. Budget authority.* The member shall have authority over the individual budget authorized by the department to perform the following tasks:

(1) No change.

(2) Determine the amount to be paid for services. Reimbursement rates shall be consistent with rates paid by others in the community for the same or substantially similar services. Reimbursement rates for the independent support broker and the financial management service are subject to the limits in 441—subrule 79.1(2). The reimbursement rate for a member’s legal representative who provides services to the member as allowed by 441—paragraph 79.9(7) “b” must be based on the skill level of the legal representative and may not exceed the median statewide reimbursement rate for the service unless the higher rate receives prior approval from the department.

## HUMAN SERVICES DEPARTMENT[441](cont'd)

(3) Schedule the provision of services. Whenever a member's legal representative provides services to the member as allowed by 441—paragraph 79.9(7) "b," the legal representative may not be paid for more than 40 hours of service per week and a contingency plan must be established in the member's service plan to ensure service delivery in the event the legal representative is unable to provide services due to illness or other unexpected event.

(4) and (5) No change.

ITEM 9. Amend paragraph **78.43(13)"a"** as follows:

a. *Service planning.*

(1) The member, parent, guardian, or attorney in fact under a durable power of attorney for health care shall:

(1) 1. Select the individual or agency that will provide the components of the attendant care services.

(2) 2. Determine with the selected provider what components of attendant care services the provider shall perform, subject to confirmation by the service worker or case manager that those components are consistent with the assessment and are authorized covered services.

(3) 3. Complete, sign, and date Form 470-3372, HCBS Consumer-Directed Attendant Care Agreement, to indicate the frequency, scope, and duration of services (a description of each service component and the time agreed on for that component). The case manager or service worker and provider shall also sign the agreement.

(4) 4. Submit the completed agreement to the service worker or case manager. The agreement shall be part of the member's service plan and shall be kept in the member's records, in the provider's records, and in the service worker's or case manager's records. Any service component that is not listed in the agreement shall not be payable.

(2) Whenever a legal representative acts as a provider of consumer-directed attendant care as allowed by 441—paragraph 79.9(7) "b," the following shall apply:

1. The payment rate for the legal representative must be based on the skill level of the legal representative and may not exceed the median statewide reimbursement rate for the service unless the higher rate receives prior approval from the department;

2. The legal representative may not be paid for more than 40 hours of service per week; and

3. A contingency plan must be established in the member's service plan to ensure service delivery in the event the legal representative is unable to provide services due to illness or other unexpected event.

ITEM 10. Amend paragraph **78.43(15)"g"** as follows:

g. *Budget authority.* The member shall have authority over the individual budget authorized by the department to perform the following tasks:

(1) No change.

(2) Determine the amount to be paid for services. Reimbursement rates shall be consistent with rates paid by others in the community for the same or substantially similar services. Reimbursement rates for the independent support broker and the financial management service are subject to the limits in 441—subrule 79.1(2). The reimbursement rate for a member's legal representative who provides services to the member as allowed by 441—paragraph 79.9(7) "b" must be based on the skill level of the legal representative and may not exceed the median statewide reimbursement rate for the service unless the higher rate receives prior approval from the department.

(3) Schedule the provision of services. Whenever a member's legal representative provides services to the member as allowed by 441—paragraph 79.9(7) "b," the legal representative may not be paid for more than 40 hours of service per week and a contingency plan must be established in the member's service plan to ensure service delivery in the event the legal representative is unable to provide services due to illness or other unexpected event.

(4) and (5) No change.

ITEM 11. Amend paragraph **78.46(1)"a"** as follows:

a. *Service planning.*

## HUMAN SERVICES DEPARTMENT[441](cont'd)

(1) The member, parent, guardian, or attorney in fact under a durable power of attorney for health care shall:

~~(1)~~ 1. Select the individual or agency that will provide the components of the attendant care services.

~~(2)~~ 2. Determine with the selected provider what components of attendant care services the provider shall perform, subject to confirmation by the service worker or case manager that those components are consistent with the assessment and are authorized covered services.

~~(3)~~ 3. Complete, sign, and date Form 470-3372, HCBS Consumer-Directed Attendant Care Agreement, to indicate the frequency, scope, and duration of services (a description of each service component and the time agreed on for that component). The case manager or service worker and provider shall also sign the agreement.

~~(4)~~ 4. Submit the completed agreement to the service worker or case manager. The agreement shall be part of the member's service plan and shall be kept in the member's records, in the provider's records, and in the service worker's or case manager's records. Any service component that is not listed in the agreement shall not be payable.

(2) Whenever a legal representative acts as a provider of consumer-directed attendant care as allowed by 441—paragraph 79.9(7)“b,” the following shall apply:

1. The payment rate for the legal representative must be based on the skill level of the legal representative and may not exceed the median statewide reimbursement rate for the service unless the higher rate receives prior approval from the department;

2. The legal representative may not be paid for more than 40 hours of service per week; and

3. A contingency plan must be established in the member's service plan to ensure service delivery in the event the legal representative is unable to provide services due to illness or other unexpected event.

ITEM 12. Amend paragraph **78.46(6)“g”** as follows:

*g. Budget authority.* The member shall have authority over the individual budget authorized by the department to perform the following tasks:

(1) No change.

(2) Determine the amount to be paid for services. Reimbursement rates shall be consistent with rates paid by others in the community for the same or substantially similar services. Reimbursement rates for the independent support broker and the financial management service are subject to the limits in 441—subrule 79.1(2). The reimbursement rate for a member's legal representative who provides services to the member as allowed by 441—paragraph 79.9(7)“b” must be based on the skill level of the legal representative and may not exceed the median statewide reimbursement rate for the service unless the higher rate receives prior approval from the department.

(3) Schedule the provision of services. Whenever a member's legal representative provides services to the member as allowed by 441—paragraph 79.9(7)“b,” the legal representative may not be paid for more than 40 hours of service per week and a contingency plan must be established in the member's service plan to ensure service delivery in the event the legal representative is unable to provide services due to illness or other unexpected event.

(4) and (5) No change.

## HUMAN SERVICES DEPARTMENT[441](cont'd)

ITEM 13. Amend subrule **79.1(2)**, provider category “HCBS waiver service providers,” numbered paragraphs “15” and “32” to “34,” as follows:

Provider category	Basis of reimbursement	Upper limit
15. Consumer-directed attendant care provided by:		
Agency (other than an elderly waiver assisted living program)	Fee agreed upon by member and provider	Effective 7/1/13, provider’s rate in effect 6/30/13 plus 3%, converted to a 15-minute rate. If no 6/30/13 rate: \$5.30 per 15-minute unit, not to exceed \$122.62 per day.
Assisted living program (for elderly waiver only)	Fee agreed upon by member and provider	Effective 7/1/13, provider’s rate in effect 6/30/13 plus 3%, converted to a 15-minute rate. If no 6/30/13 rate: \$5.30 per 15-minute unit, not to exceed \$122.62 per day.
Individual	Fee agreed upon by member and provider	Effective 7/1/13, \$3.54 per 15-minute unit, not to exceed \$82.53 per day. <u>When an individual who serves as a member’s legal representative provides services to the member as allowed by 79.9(7) “b,” the payment rate must be based on the skill level of the legal representative and may not exceed the median statewide reimbursement rate for the service unless the higher rate receives prior approval from the department.</u>
32. Self-directed personal care	Rate negotiated by member	Determined by member’s individual budget. <u>When an individual who serves as a member’s legal representative provides services to the member as allowed by 79.9(7) “b,” the payment rate must be based on the skill level of the legal representative and may not exceed the median statewide reimbursement rate for the service unless the higher rate receives prior approval from the department.</u>
33. Self-directed community supports and employment	Rate negotiated by member	Determined by member’s individual budget. <u>When an individual who serves as a member’s legal representative provides services to the member as allowed by 79.9(7) “b,” the payment rate must be based on the skill level of the legal</u>

34. Individual-directed goods and services	Rate negotiated by member	<p><u>representative and may not exceed the median statewide reimbursement rate for the service unless the higher rate receives prior approval from the department.</u></p> <p>Determined by member's individual budget. <u>When an individual who serves as a member's legal representative provides services to the member as allowed by 79.9(7) "b," the payment rate must be based on the skill level of the legal representative and may not exceed the median statewide reimbursement rate for the service unless the higher rate receives prior approval from the department.</u></p>
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ITEM 14. Amend subrule 79.9(7) as follows:

**79.9(7) Incorrect payment.**

a. Medical Except as provided in paragraph 79.9(7) "b," medical assistance funds are incorrectly paid whenever ~~a person~~ an individual who provided the service to the member for which the department paid was at the time service was provided the parent of a minor child, spouse, or legal representative of the member.

b. Notwithstanding paragraph 79.9(7) "a," medical assistance funds are not incorrectly paid when an individual who serves as a member's legal representative provides services to the member under a home- and community-based services waiver consumer-directed attendant care agreement or under a consumer choices option employment agreement in effect on or after December 31, 2013. For purposes of this paragraph, "legal representative" means a person, including an attorney, who is authorized by law to act on behalf of the medical assistance program member but does not include the spouse of a member or the parent or stepparent of a member aged 17 or younger.

ITEM 15. Amend rule 441—79.9(249A), implementation sentence, as follows:

This rule is intended to implement Iowa Code section 249A.4 and 2014 Iowa Acts, Senate File 2320.

[Filed Emergency After Notice 8/13/14, effective 8/13/14]

[Published 9/3/14]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/3/14.

**ARC 1595C**

**IOWA FINANCE AUTHORITY[265]**

**Adopted and Filed Emergency**

Pursuant to the authority of Iowa Code sections 17A.3(1)"b," 16.5(1)"r," and 16.5(1)"m," the Iowa Finance Authority hereby amends Chapter 27, "Military Service Member Home Ownership Assistance Program," Iowa Administrative Code.

The purposes of these amendments are to bring the rules relating to the Military Home Ownership Assistance Program into compliance with 2014 Iowa Acts, Senate File 303, section 55, and to clarify related provisions of the rules.

The Authority does not intend to grant waivers under the provisions of any of these rules, other than as may be allowed under the Authority's general rules concerning waivers.

IOWA FINANCE AUTHORITY[265](cont'd)

The Authority finds, pursuant to Iowa Code section 17A.4(3), that notice and public participation are impracticable and contrary to the public interest in that the normal notice and public participation process would cause an interruption in the administration of the program and delay implementation of the new legislation, which is designed to assist service members in the purchase of residences in the state of Iowa.

The amendment of these rules on an emergency basis was authorized by the Iowa Legislature's Administrative Rules Review Committee on August 5, 2014.

The Authority finds, pursuant to Iowa Code section 17A.5(2)"b"(2), that the normal effective date of these amendments shall be waived. The August 6, 2014, effective date will allow streamlined administration of the program and ready implementation of the new legislation, which is designed to assist service members in the purchase of residences in the state of Iowa.

The Authority is also concurrently publishing these amendments under Notice of Intended Action as **ARC 1594C** herein to allow for public comment.

The Authority adopted these amendments on August 6, 2014.

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

These amendments are intended to implement Iowa Code section 16.54 as amended by 2014 Iowa Acts, Senate File 303, division VIII.

These amendments became effective on August 6, 2014.

The following amendments are adopted.

ITEM 1. Amend the following definitions in rule **265—27.2(16)**:

*"Eligible service member"* means a person purchasing his or her primary residence in the state of Iowa who, at the time of ~~applying~~ application for a grant under the program, (1) is or was, if discharged under honorable conditions, a member of the national guard, reserve, or regular component of the armed forces of the United States under Title 10 or Title 32 and has served at least 90 days of active duty service, other than training, beginning on or after September 11, 2001, ~~and, if no longer in active service, was discharged in character other than dishonorable~~ or during the period of the Persian Gulf Conflict, beginning August 2, 1990, and ending April 6, 1991; (2) was honorably discharged due to injuries incurred while on active federal service beginning on or after September 11, 2001, or during the period of the Persian Gulf Conflict, beginning August 2, 1990, and ending April 6, 1991; or (3) is a surviving spouse of a service member who met the eligibility criteria of (1) or (2) above.

*"Participating lender"* means a lender approved for participation in one or more of the authority's ~~first mortgage financing home buyer programs and a lender approved to facilitate loans under the military home ownership assistance program only~~. Eligible home buyer program participating lenders are those that make available the authority's home buyer program to customers in the same manner as other mortgage loan programs. ~~This requirement applies to branch and affiliate organizations that facilitate mortgage financing with the military assistance. The authority may require participating lenders to provide evidence of proof of compliance, such as origination of mortgage loans made pursuant to one or more of the authority's home buyer mortgage programs or mortgage rate sheets evidencing availability of the authority's mortgage programs.~~ The authority maintains a list of participating lenders on its Web site: [www.iowafinanceauthority.gov](http://www.iowafinanceauthority.gov).

*"Qualified mortgage"* means a permanent mortgage loan made pursuant to one of the authority's home buyer mortgage programs unless the lender offers a lower annual percentage interest rate (APR), fixed-rate, fully amortizing first mortgage ~~or, in cases where the home buyer is not eligible for standard 30-year, fixed-rate FHA, RD, VA, Fannie Mae, or Freddie Mac mortgage financing, any permanent, fully amortizing mortgage loan made by a participating lender with a maturity date of not less than five years.~~ meeting the requirements of paragraph 27.3(2)"a." The authority's home buyer mortgage program information may be obtained on the authority's Web site at [www.iowafinanceauthority.gov](http://www.iowafinanceauthority.gov).

ITEM 2. Adopt the following **new** definition in rule **265—27.2(16)**:

*"Facilitating lender"* means a lender that is not a participating lender but that is approved by the authority to make loans under the military home ownership assistance program pursuant to Iowa Code section 16.54(5) and subrule 27.3(7).

IOWA FINANCE AUTHORITY[265](cont'd)

ITEM 3. Amend subrule 27.3(2) as follows:

**27.3(2) *Financed home purchases.***

a. In the case of the purchase of a qualified home that is to be financed, the eligible service member must apply for assistance under the program through a participating lender or a lender approved to facilitate MHOA assistance. The mortgage financing provided shall be a mortgage loan made pursuant to one of the authority's home buyer mortgage programs if the service member qualifies for it; provided, however, that notwithstanding the foregoing, a service member may utilize a mortgage loan that is not made pursuant to one of the authority's home buyer mortgage programs ~~which is from a lender approved to facilitate MHOA assistance~~ if:

(1) ~~such~~ Such mortgage loan is offered by either:

1. A lender that participates in one of the authority's first mortgage financing programs, or

2. A lender approved pursuant to Iowa Code section 16.54(5); and

(2) The authority determines that the offered financing would be economically feasible and financially advantageous for the eligible service member. The authority shall presume an offer of financing to be financially advantageous for the eligible service member if the offered financing has an annual percentage rate that is at least 25 basis points lower than the most nearly equivalent loan offered by participating lenders on the same date pursuant to one of the authority's home buyer mortgage programs.

If the service member does not qualify for one of the authority's home buyer mortgage programs, another permanent, fixed rate, fully amortizing mortgage loan may be used.

b. To apply for the military assistance, the eligible service member shall provide the lender with all of the following:

(1) Status documentation;

(2) A bona fide purchase agreement with any addenda or attachments for a primary residence;

(3) A complete loan application on Form 1003;

(4) A copy of a government-issued photo identification card or a lender certification that a government-issued photo identification card has been provided;

(5) A copy of the subject appraisal; and

(6) Documentation that demonstrates the home will be occupied as a primary residence.

c. The eligible service member shall assist the participating lender in completing an MHOA application on a form approved by the authority stating the amount of the assistance being requested. In the event the service member is not using one of the authority's mortgage programs, the request submission must include early truth-in-lending and good-faith estimate disclosures, ~~and, if the service member is not eligible for a 30-year, fixed-rate mortgage loan, the request submission must also include fully amortized financing and information documenting ineligibility for FHA, VA, RD, Fannie Mae or Freddie Mae financing.~~

d. No change.

ITEM 4. Amend subrule 27.3(7) as follows:

**27.3(7) *Approval process for facilitating lender status.*** ~~An~~ Pursuant to Iowa Code section 16.54(5), an Iowa-regulated or federally regulated lender with a physical location in the state of Iowa may submit an application to the authority for approval, even if such lender does not participate in the authority's home ownership programs for home buyers. The application shall include a written request to be approved as an MHOA facilitating lender, a check for \$500 payable to the authority, a narrative describing the lender's mortgage origination process, including mortgage loan products offered through the lender, documentation of Iowa or federal regulation showing that the applicant is in good standing, an errors and omissions insurance declaration evidencing coverage of at least \$300,000, and a completed electronic funds transfer form. Lenders should allow a minimum of two weeks' response time from the authority. The approval to be a facilitating lender shall be valid for one year, and lenders annually will need to submit an application, including the application fee. The application fee may not be charged in part or in full to a service member or to a property seller. Any approval granted pursuant hereto shall be contingent upon the approved lender's offering eligible service members a lower annual percentage rate

IOWA FINANCE AUTHORITY[265](cont'd)

than the annual percentage rates available at such time from lenders that participate in the authority's first mortgage financing programs.

[Filed Emergency 8/6/14, effective 8/6/14]

[Published 9/3/14]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/3/14.

## ARC 1614C

### NATURAL RESOURCE COMMISSION[571]

#### Adopted and Filed Emergency After Notice

Pursuant to the authority of Iowa Code sections 481A.38, 481A.39, 481A.48, and 455A.5(6), the Natural Resource Commission (Commission) hereby amends Chapter 91, "Waterfowl and Coot Hunting Seasons," Iowa Administrative Code.

This chapter contains the regulations for hunting waterfowl and coot and includes season dates, bag limits, possession limits, shooting hours, and areas open to hunting. These amendments adjust the season dates to comply with federal regulations and to ensure that the seasons open on weekends and add a special September teal season for up to 16 days for all species of teal.

These zones and season dates provide different opening and closing dates for the duck season in each zone. The U.S. Fish and Wildlife Service is offering expanded teal hunting opportunities in response to continued high teal populations. The additional season will not adversely impact teal numbers and will allow Iowa hunters 16 more days of recreational hunting opportunity during the peak migration period for teal.

Notice of Intended Action was published in the Iowa Administrative Bulletin on April 30, 2014, as **ARC 1450C**. A public hearing was held on May 20, 2014. Twelve comments were received, and all supported the changes in general. However, four commenters asked that days be added to the end of the season, while four others asked to keep the dates as proposed.

Two substantive changes from the Notice of Intended Action have been made. The bag limit for canvasbacks was reduced from two canvasbacks to one canvasback due to changes in the federal regulations and concerns about lower canvasback numbers. The season dates for the youth waterfowl hunt were changed from September 27, 2014, and September 28, 2014, to October 11, 2014, and October 12, 2014 in the south zone and to October 18, 2014, and October 19, 2014, in the Missouri River zone to coincide with the Canada goose open season dates.

The Commission finds, pursuant to Iowa Code section 17A.5(2)"b"(2), that the normal effective date of these amendments should be waived and that these amendments should be made effective upon filing as they confer a benefit on the public by establishing a September 6, 2014, start date for the waterfowl hunting season.

After analysis and review of this rule making, there will be a positive impact on jobs due to the additional days of hunting opportunity offered to waterfowl hunters.

These amendments are intended to implement Iowa Code sections 481A.38, 481A.39, and 481A.48. These amendments became effective on August 15, 2014.

The following amendments are adopted.

ITEM 1. Amend subrules 91.1(2) to 91.1(7) as follows:

**91.1(2) Season dates - north zone.** Special September teal season: September 6 through September 21. For all ducks: ~~September 21~~ October 4 through ~~September 25~~ October 19 and ~~October 12~~ 25 through December ~~5~~ 7.

**91.1(3) Season dates - south zone.** Special September teal season: September 6 through September 21. For all ducks: ~~September 21~~ October 4 through ~~September 25~~ October 8 and ~~October 19~~ 18 through December ~~12~~ 11.

## NATURAL RESOURCE COMMISSION[571](cont'd)

**91.1(4) Season dates - Missouri River zone.** Special September teal season: September 6 through September 21. For all ducks: ~~September 21~~ October 4 through September 25 October 8 and October 26 25 through December 19 18.

**91.1(5) Bag limit.** Special September teal season: The daily bag limit is 6 teal of any species. For all ducks: The daily bag limit of ducks is 6, and may include no more than 4 mallards (no more than 2 of which may be females), 1 black duck, 3 wood ducks, 2 pintails, 1 mottled duck, ~~2 canvasbacks~~ 1 canvasback, 2 redheads, and 3 scaup. The daily bag limit of mergansers is 5, only 2 of which may be hooded mergansers.

**91.1(6) Possession limit.** For the special teal season and for all ducks: Possession limit is three times the daily bag limit.

**91.1(7) Shooting hours.** For the special teal season: Shooting hours are sunrise to sunset each day. For all ducks: Shooting hours are one-half hour before sunrise to sunset each day.

ITEM 2. Amend subrules 91.3(2) to 91.3(4) as follows:

**91.3(2) Season dates - north zone.** Canada geese and brant: September ~~28~~ 27 through January ~~3,~~ 2, 2015. White-fronted geese: September ~~28~~ 27 through December ~~10~~ 9. Light geese (white and blue-phase snow geese and Ross' geese): September ~~28~~ 27 through January ~~12,~~ 11, 2015.

**91.3(3) Season dates - south zone.** Canada geese and brant: October ~~5~~ 4 through January ~~10,~~ 9, 2015. White-fronted geese: October ~~5~~ 4 through December ~~17~~ 16. Light geese (white and blue-phase snow geese and Ross' geese): October ~~5~~ 4 through January ~~17,~~ 16, 2015.

**91.3(4) Season dates - Missouri River zone.** Canada geese and brant: October ~~12~~ 11 through January ~~17,~~ 16, 2015. White-fronted geese: October ~~12~~ 11 through December ~~24~~ 23. Light geese (white and blue-phase snow geese and Ross' geese): October ~~12~~ 11 through January ~~17,~~ 16, 2015.

ITEM 3. Amend subrules 91.3(8) to 91.3(11) as follows:

**91.3(8) Light goose conservation order season.** Only light geese (white and blue-phase snow geese and Ross' geese) may be taken under a conservation order from the U.S. Fish and Wildlife Service from January ~~18,~~ 17, 2015, through April 15, ~~2014~~ 2015.

a. to e. No change.

**91.3(9) Cedar Rapids/Iowa City goose hunting zone.**

a. *Season dates.* September ~~7~~ 6 through September ~~15~~ 14.

b. to d. No change.

**91.3(10) Des Moines goose hunting zone.**

a. *Season dates.* September ~~7~~ 6 through September ~~15~~ 14.

b. to d. No change.

**91.3(11) Cedar Falls/Waterloo goose hunting zone.**

a. *Season dates.* September ~~7~~ 6 through September ~~15~~ 14.

b. to d. No change.

ITEM 4. Amend rule 571—91.6(481A) as follows:

**571—91.6(481A) Youth waterfowl hunt.** A special youth waterfowl hunt will be held on ~~October 5~~ and 6 September 27 and 28 in the north duck hunting zone, ~~October 12~~ 11 and ~~13~~ 12 in the south duck hunting zone, and ~~October 19~~ 18 and ~~20~~ 19 in the Missouri River duck hunting zone. Youth hunters must be residents of Iowa as defined in Iowa Code section 483A.1A and less than 16 years old. Each youth hunter must be accompanied by an adult 18 years old or older. The youth hunter does not need to have a hunting license or stamps. The adult must have a valid hunting license and habitat stamp if normally required to have them to hunt and a state waterfowl stamp. Only the youth hunter may shoot ducks and coots. The adult may hunt for any other game birds for which the season is open. The daily bag and

NATURAL RESOURCE COMMISSION[571](cont'd)

possession limits are the same as for the regular waterfowl season, as defined in rule 571—91.1(481A). All other hunting regulations in effect for the regular waterfowl season apply to the youth hunt.

[Filed Emergency After Notice 8/15/14, effective 8/15/14]

[Published 9/3/14]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/3/14.

## ARC 1597C

## EDUCATION DEPARTMENT[281]

## Adopted and Filed

Pursuant to the authority of Iowa Code section 256.7(5), the State Board of Education hereby amends Chapter 6, "Appeal Procedures," Iowa Administrative Code.

New rule 281—6.23(256,17A) is intended to keep the state of Iowa in compliance with appeal procedures in federal regulations. New subrule 6.23(2) contains references to the particular programs for which adherence to the appeals process is required. This is not an exhaustive list. In all other cases, the federal appeals process is enacted only if the program contains an appeals process requirement with which Iowa maintains compliance.

An agencywide waiver provision is provided in 281—Chapter 4.

Notice of Intended Action was published in the June 11, 2014, Iowa Administrative Bulletin as **ARC 1498C**. Public comments were allowed until 4:30 p.m. on July 1, 2014. A public hearing was held on that date. No one attended the public hearing. No written comments were received regarding this amendment. This amendment is identical to that published under Notice.

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

This rule is intended to implement Iowa Code sections 256.7(1), 256.7(6), 256.9(1) and 256.9(7).

This rule will become effective October 8, 2014.

The following amendment is adopted.

Adopt the following new rule 281—6.23(256,17A):

**281—6.23(256,17A) Additional requirements for specific programs.**

**6.23(1) General rule.** If a specific federal program's statutes or regulations impose requirements on appeals to the state board of education, the director of education, or the department of education, those specific requirements shall be followed and are incorporated by this reference.

**6.23(2) Specific programs.** The following is a nonexhaustive list to which this rule applies.

*a.* Appeals under the Child and Adult Care Food Program (CACFP) shall be governed by the requirements contained in 7 CFR Section 226.6 as of May 15, 2014.

*b.* Due process complaints under Part B of the Individuals with Disabilities Education Act and Iowa Code chapter 256B shall be governed by Iowa Administrative Code 281—Chapter 41.

*c.* Due process complaints under Part C of the Individuals with Disabilities Education Act shall be governed by Iowa Administrative Code 281—Chapter 120.

[Filed 8/8/14, effective 10/8/14]

[Published 9/3/14]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/3/14.

## ARC 1596C

## EDUCATION DEPARTMENT[281]

## Adopted and Filed

Pursuant to the authority of Iowa Code section 256.7(5), the State Board of Education hereby amends Chapter 97, "Supplementary Weighting," Iowa Administrative Code.

2014 Iowa Acts, House File 2271, related to supplementary weighting for shared operational functions of school districts, amends Iowa Code sections 257.11(7)"a"(1) and 257.11(7)"c" and "d." In addition, 2014 Iowa Acts, Senate File 2056, related to whole-grade sharing incentives for school districts, amends Iowa Code sections 257.3(2)"d," 257.11(2)"c," and 257.11A and repeals section 257.11(5). The new operational sharing law, with an immediate enactment clause, makes substantial changes to operational sharing provisions in Iowa. In operational sharing, districts share personnel in listed positions under the

EDUCATION DEPARTMENT[281](cont'd)

law and receive additional state payment for doing so. With these new changes in the law, the current administrative rules are no longer accurate and need to be updated.

In addition, whole-grade sharing incentives have also been changed by other legislation with the same sunset and timing requirements that impact operational sharing. Changes to those rules are also contained herein.

The Department has determined that these amendments will not necessitate additional annual expenditures exceeding \$100,000 or combined expenditures exceeding \$500,000 within five years by all affected persons, including the agency. Therefore, no fiscal impact statement accompanies this rule making.

The Department has determined that these amendments will have no impact on small business within the meaning of Iowa Code section 17A.4A.

Notice of Intended Action was published in the June 11, 2014, Iowa Administrative Bulletin as **ARC 1499C**. These amendments were also Adopted and Filed Emergency and published as **ARC 1486C** on the same date. Public comments were allowed until 4:30 p.m. on July 1, 2014. A public hearing was held on that date. No one attended the public hearing. No written comments were received regarding these amendments. These amendments are identical to those published under Notice and Adopted and Filed Emergency.

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

These amendments are intended to implement Iowa Code sections 257.11(7)“a”(1) and 257.11(7)“c” and “d” as amended by 2014 Iowa Acts, House File 2271; Iowa Code sections 257.3(2)“d,” 257.11(2)“c,” and 257.11A as amended by 2014 Iowa Acts, Senate File 2056; and 2014 Iowa Acts, Senate File 2056, section 3.

These amendments will become effective on October 8, 2014, at which time the Adopted and Filed Emergency amendments are hereby rescinded.

The following amendments are adopted.

ITEM 1. Amend the following definitions in rule **281—97.1(257)**:

“*Fraction of a school year at the secondary level*” shall mean the product of the ~~class periods~~ minutes per day of class times the number of days per year the class meets divided by the product of the total number of class periods in a school day times the total number of days in a school year. All ~~class periods~~ minutes available in a normal day shall be used in the calculation.

“*Political subdivision*” shall mean a political subdivision in the state of Iowa and shall include a city, a township, a county, a public school district, a community college, an area education agency, or an institution governed by the state board of regents (~~Malcolm Price Laboratory School, Iowa Braille and Sight Saving School, Iowa School for the Deaf, Iowa State University, University of Iowa, and University of Northern Iowa~~).

“*Supplant*” shall mean the community college’s ~~replacing the identical course that was offered by the school district in the preceding year or the second preceding year,~~ offering a course that consists of substantially the same concepts and skills as the content of a course provided by the school district or the community college’s offering a course that is required by the school district in order to meet the minimum accreditation standards in Iowa Code section 256.11. If a student is unable to earn credit in both courses, then the two courses would be deemed similar enough in content and skills to be defined as supplanting.

ITEM 2. Amend rule 281—97.5(257) as follows:

**281—97.5(257) Supplementary weighting plan for whole-grade sharing.**

**97.5(1) Whole-grade sharing.** A school district which participates in a whole-grade sharing arrangement executed pursuant to Iowa Code sections 282.10 to 282.12 and which has adopted a board resolution to study dissolution or has adopted a board resolution jointly with all other affected boards to study reorganization to take effect on or before July 1, ~~2014~~ 2019, is eligible to assign a weighting of one-tenth of the fraction of the school year during which resident pupils attend classes pursuant to subrule 97.2(1), paragraph “a,” “b,” or “c.” A school district participating in a whole-grade sharing

## EDUCATION DEPARTMENT[281](cont'd)

arrangement shall be eligible for supplementary weighting under this subrule for a maximum of three years. Receipt of supplementary weighting for the second year and for the third year shall be conditioned upon submission of information resulting from the study to the school budget review committee indicating progress or continued progress toward the objective of dissolution or reorganization on or before July 1, ~~2014~~ 2019.

**97.5(2)** No change.

**97.5(3) Consecutive years.** A school district that is eligible to add a supplementary weighting for resident students attending classes under a whole-grade sharing arrangement pursuant to subrule 97.5(1) is not required to utilize consecutive years. However, the final year in which a supplementary weighting may be added on October 1 for this purpose shall not be later than the school year that begins July 1, ~~2013~~ 2018.

**97.5(4)** and **97.5(5)** No change.

**97.5(6) Filing progress reports.** Each school district that assigned a supplementary weighting to resident students attending class in a whole-grade sharing arrangement and that intends to assign a supplementary weighting to resident students attending class in a whole-grade sharing arrangement in the following year shall file a report of progress toward reorganization with the school budget review committee, on forms developed by the department of education, no later than August 1 preceding October 1 on which date the district intends to request supplementary weighting for whole-grade sharing.

*a.* No change.

*b.* The report must indicate progress toward a reorganization or dissolution to occur on or before July 1, ~~2014~~ 2019. Indicators of progress may include, but are not limited to:

(1) to (12) No change.

*c.* to *e.* No change.

ITEM 3. Amend rule 281—97.7(257) as follows:

**281—97.7(257) Supplementary weighting plan for operational services.**

**97.7(1) Eligibility.** ~~Except for students listed under subrule 97.2(6), a resident student is eligible for supplementary~~ Supplementary weighting if the student is eligible to be counted as a resident student for certified enrollment and is available if all of the following criteria are met:

*a.* The district shares a discrete operational function with one or more other political subdivisions pursuant to a written contract.

*b.* The district shares ~~the an~~ an operational function for at least 20 percent of the contract time period during the fiscal year that is customary for a full-time employee in the operational function ~~being shared, and at least one of the sharing partners also shares the operational function~~ for at least 20 percent of the contract time period during the fiscal year. The 20 percent is measured each fiscal year and for each discrete operational function.

*c.* Personnel shared as part of ~~the an~~ an operational function are employees of one of the sharing partners but are not employees of more than one of the sharing partners.

*d.* If the district shares an operational function with more than one political subdivision, the sharing arrangement is listed only once for purposes of supplementary weighting.

*e.* If the district shares more than one individual in the same operational function, that operational function shall be listed only once for the purposes of supplementary weighting.

*f.* No individual personnel shall be included for operational function sharing more than once for supplementary weighting in the same fiscal year.

*g.* If more than one sharing arrangement is implemented in any one operational function area and the services shared are substantially similar as determined by the department of education, only the sharing arrangement implemented first will be eligible for supplementary weighting.

*h.* The operational function areas shared include one or more of the areas listed in subrule 97.7(2).

**97.7(2) Operational function area eligibility.** “Operational function sharing” means sharing of managerial personnel in the discrete operational function areas of superintendent management, business management, human resources management, student transportation management, facility operation or maintenance management, ~~social worker, school nurse, curriculum director or school counselor, or~~

## EDUCATION DEPARTMENT[281](cont'd)

~~school librarian.~~ “Operational function sharing” does not mean sharing of clerical personnel or school principals. The operational function sharing arrangement does not need to be a newly implemented sharing arrangement in order to be eligible for supplementary weighting.

*a. Superintendent management.*

(1) Shared personnel must perform the services of a superintendent, in the case of a school district, or chief administrator, in the case of an area education agency, or executive administrator, in the case of other political subdivisions, ~~for each of the sharing partners.~~ An individual performing the function of a superintendent or chief administrator must be properly licensed for that position.

(2) If the services of a superintendent are shared in any of the five eligible years, the district may not also share an assistant superintendent in any year for purposes of supplementary weighting.

(3) Clerical or other support services personnel in the superintendent function area or executive administrator function area shall not be considered shared superintendent management under this subrule.

(4) Shared superintendent services or executive administrator services shall not include contracting for services from a private provider even if another political subdivision is contracting for services from the same private provider.

*b. Business management.*

(1) Shared personnel must perform the services of managing the business operations ~~for each of the sharing partners.~~ Managing business operations would include personnel performing the duties of a business manager or school business official, or personnel performing the duties listed in the Iowa Code for a board secretary including, but not limited to, board secretary duties listed in Iowa Code chapter 291, or personnel performing the duties listed in the Iowa Code for a board treasurer including, but not limited to, board treasurer duties listed in Iowa Code chapter 291, ~~in each of the sharing partners.~~

(2) Services of clerical personnel, school administration managers, superintendents, principals, teachers, board officers except those listed in subparagraph (1), or any other nonbusiness administration personnel shall not be considered shared business management under this subrule.

(3) Shared business management shall not include contracting for services from a private provider even if another political subdivision is contracting for services from the same private provider.

*c. Human resources management.*

(1) Shared personnel must perform the services of managing human resources ~~for each of the sharing partners.~~

(2) Services of clerical personnel, superintendents, principals, ~~school administration managers, school business officials, business managers,~~ curriculum directors, teachers, or board officers shall not be considered shared human resources management under this subrule.

(3) Shared human resources management shall not include contracting for services from a private provider even if another political subdivision is contracting for services from the same private provider.

*d. Student transportation management.*

(1) Shared personnel shall include transportation directors or supervisors. Shared personnel must perform services related to transportation ~~for each of the sharing partners, but may perform different transportation services for each of the sharing partners.~~

(2) Services of school business officials, business managers, school administration managers, clerical or paraprofessional personnel, school bus mechanics, and school bus drivers shall not be considered shared student transportation management under this subrule.

(3) Shared transportation management shall not include contracting for services from a private provider even if another political subdivision is contracting for services from the same private provider.

*e. Facility operations and maintenance.*

(1) Shared personnel shall include facility managers and supervisors of buildings or grounds. Shared personnel must perform services related to facility operations and maintenance ~~for each of the sharing partners, but may perform different facility operations and maintenance services for each of the sharing partners.~~

## EDUCATION DEPARTMENT[281](cont'd)

(2) Services of school business officials, business managers, school administration managers, clerical personnel or custodians shall not be considered shared facility operations and maintenance management for supplementary weighting under this subrule.

(3) Shared facility operations and maintenance management shall not include contracting for services from a private provider even if another political subdivision is contracting for services from the same private provider.

*f. Curriculum director.*

(1) Shared personnel must perform the services of a curriculum director ~~for each of the sharing partners~~. An individual performing the function of a curriculum director must be properly licensed for that position.

(2) ~~Clerical Technology directors and clerical, paraprofessional, or other support services personnel~~ in the improvement of instruction function area shall not be considered a shared curriculum director under this subrule.

(3) Shared curriculum director services shall not include contracting for services from a private provider even if another political subdivision is contracting for services from the same private provider.

~~*g. School administration manager.*~~

~~(1) Shared personnel must perform the services of a school administration manager for each of the sharing partners. An individual performing the function of a school administration manager must be properly licensed for that position.~~

~~(2) Principals, assistant principals, deans of students, or paraprofessional, clerical or other support services personnel in the school administration function area shall not be considered a shared school administration manager under this subrule.~~

~~(3) Shared school administration manager services shall not include contracting for services from a private provider even if another political subdivision is contracting for services from the same private provider.~~

~~*h. Social worker.*~~

~~(1) Shared personnel must perform the services of a social worker for each of the sharing partners. An individual performing the function of a social worker must be properly licensed for that position by holding a statement of professional recognition from the board of educational examiners.~~

~~(2) Assistants in social work or clerical, paraprofessional, or other support services personnel in the attendance and social work services function area shall not be considered a shared social worker under this subrule.~~

~~(3) Shared social worker services shall not include contracting for services from a private provider even if another political subdivision is contracting for services from the same private provider.~~

~~*i. School nurse.*~~

~~(1) Shared personnel must perform the services of a school nurse for each of the sharing partners. An individual performing the function of a school nurse must be properly licensed for that position by holding a statement of professional recognition from the board of educational examiners.~~

~~(2) Assistants, licensed practical nurses, or paraprofessionals, aides, clerical or other support services personnel in the health or psychological services function area shall not be considered a shared school nurse under this subrule.~~

~~(3) Shared school nurse services shall not include contracting for services from a private provider even if another political subdivision is contracting for services from the same private provider.~~

~~*j. g. School counselor.*~~

~~(1) Shared personnel must perform the services of a school counselor for each of the sharing partners. An individual performing the function of a school counselor must be properly licensed for that position.~~

~~(2) Deans of students, social workers, or clerical, paraprofessional, or other support services personnel in the guidance services function area shall not be considered a shared school counselor under this subrule.~~

~~(3) Shared school counselor services shall not include contracting for services from a private provider even if another political subdivision is contracting for services from the same private provider.~~

## EDUCATION DEPARTMENT[281](cont'd)

*k. School librarian.*

~~(1) Shared personnel must perform the services of a school librarian for each of the sharing partners. An individual performing the function of a school librarian must be properly licensed for that position.~~

~~(2) Technology directors, media specialists, or paraprofessional, aide, clerical or other support services personnel in the library media services function area shall not be considered a shared school librarian under this subrule.~~

~~(3) Shared school librarian services shall not include contracting for services from a private provider even if another political subdivision is contracting for services from the same private provider.~~

**97.7(3) Years of eligibility.** A school district participating in an operational function sharing arrangement shall be eligible for supplementary weighting under this rule for a maximum of five years. The five years of eligibility shall include each year in which any shared operational function is included for supplementary weighting. The supplementary weighting for eligible shared operational functions may be included beginning on October 1, 2013.

~~a. Receipt of supplementary weighting after the first year shall be conditioned upon the submission of cost information provided in the format prescribed by the department of education as part of the BEDS fall data collection and certified annual report documenting cost savings directly attributable to the shared operational functions.~~

~~b. The documentation on the BEDS fall data collection shall be filed no later than the published deadline for that data collection and the documentation on the certified annual report shall be filed no later than September 15 preceding the October 1 on which the operational function sharing is included for supplementary weighting.~~

**97.7(4) Contiguous districts.** School districts that share operational functions with other school districts are not required to be contiguous school districts. If the districts are not contiguous, the district(s) separating those districts is not required to be a party to the operational sharing arrangement.

**97.7(5) to 97.7(9)** No change.

**97.7(10) Weighting.** ~~Resident students eligible for supplementary weighting pursuant to rule 281 97.7(257) shall be eligible for a weighting of two hundredths per pupil included in the actual enrollment in the district. A school district that shares an operational function in the area of superintendent management shall be assigned a supplementary weighting of eight pupils for the function. A school district that shares an operational function in the area of business management, human resources management, transportation management, or operation and maintenance management shall be assigned a supplementary weighting of five pupils for the function. A school district that shares the operational functions of a curriculum director or a school counselor shall be assigned a supplementary weighting of three pupils for the function. The supplementary weighting shall be assigned to each discrete operational function shared. The maximum number of years for which a supplementary weighting shall be assigned for all operational functions shared is five years. The department shall reserve the authority to determine if an operational sharing arrangement constitutes a discrete arrangement, new arrangement, or continuing qualifying operational sharing arrangement if the circumstances have not been clearly described in the Iowa Code or the Iowa Administrative Code.~~

**97.7(11) Sharing arrangement duties.** A school district may receive the additional weighting for the sharing of services of an individual with a political subdivision even if the type of operational function performed by the individual for the school district and the type of operational function performed by the individual for the political subdivision are not the same operational function, so long as both operational functions are eligible for weighting. In such case, the school district shall be assigned the additional weighting for the type of operational function that the individual performs for the school district, and the school district shall not receive additional weighting for any other function performed by the individual.

**97.7(11) 97.7(12) Maximum weighting.** The maximum amount of additional weighting for which a school district participating in operational function sharing shall be eligible in a budget year is an amount corresponding to 40 21 full-time equivalent pupils. The maximum additional weighting applies to the total of all operational function sharing rather than to each discrete operational function. Each eligible discrete operational function sharing arrangement shall be included in the total of all operational function sharing. If the district's total of all discrete operational function sharing exceeds 21 full-time equivalent

## EDUCATION DEPARTMENT[281](cont'd)

pupils, the department shall make a reduction in the total rather than separately adjusting the discrete operational function sharing that made up the total.

~~97.7(12) *Minimum weighting.* The minimum amount of additional weighting for which a school district participating in operational function sharing shall be eligible is an amount corresponding to ten additional pupils. The minimum additional weighting applies to the total of all operational function sharing rather than each discrete operational function.~~

~~97.7(13) *Filing cost savings documentation.* Each school district that receives supplementary weighting for sharing one or more operational functions shall file with the department of education documentation of cost savings directly attributable to the shared operational functions. This documentation shall be submitted in the format prescribed by the department of education as part of the certified annual report and the BEDS fall data collection. The district or AEA shall report the FTE for each discrete operational function area eligible for supplementary weighting on its BEDS fall data collection. The certified annual report shall be filed no later than September 15 preceding the October 1 on which the operational function sharing is included for supplementary weighting and the BEDS fall data collection shall be filed no later than its published deadline. If a district or AEA does not file in a timely manner its certified annual report and its BEDS fall data collection, it will not be eligible to request operational function sharing supplementary weighting.~~

~~97.7(13) *Uses of funding.* Additional funds provided through supplementary weighting for operational function sharing shall be used to increase student opportunities.~~

~~97.7(14) *Determining cost savings.* The criteria considered by the department of education in determining shared operational function cost savings and increased student opportunities shall include, but not be limited to, the following:~~

~~a.—The level of FTE for each discrete operational function area eligible for supplementary weighting as compared to the level of FTE for that same discrete operational function area in the 2012-2013 school year as reported on the BEDS fall data collection.~~

~~b.—If, in the opinion of department staff, the FTE is not sufficient documentation on which to determine eligibility for operational function sharing supplementary weighting, the department may also review the following from the certified annual report:~~

~~(1) The percent of costs calculated as the total of general fund expenditures for all operational functions that could be shared, in function codes 2300 and greater, divided by the total of all general fund expenditures, multiplied by 100, in the prior fiscal year compared to the 2012-2013 fiscal year. The prior fiscal year is the fiscal year ending on June 30 as reported on the certified annual report that was due on September 15, prior to October 1 on which the district included any operational function shared for supplementary weighting. The cost savings and increased student opportunities shall be evidenced by the percent which is less than or equal to the percent in the 2012-2013 fiscal year.~~

~~(2) The department of education will adjust the total expenditures to exclude distorting financial transactions or interagency financial transactions. Distorting financial transactions shall be determined by the department of education.~~

~~c.—If the district increases the total FTE of personnel in any discrete operational function area eligible for supplementary weighting, the district will not be eligible for supplementary weighting for operational function sharing for that discrete operational function area until the fiscal year in which the FTE is decreased to or below the level reported by the district on its BEDS staff data collection in fiscal year 2012-2013.~~

~~d.—If the district cannot demonstrate cost savings directly attributable to the shared operational function or increased student opportunities, the district will not be eligible for supplementary weighting for operational function sharing for that fiscal year.~~

~~97.7(15) 97.7(14) *Area education agency maximum funding.* The provisions of rule 281—97.7(257) also apply to an area education agency except for per-pupil weightings, minimum weightings, pupil counts for operational function sharing and maximum weightings.~~

~~a. In lieu of minimum weightings, an An area education agency shall be eligible for a minimum amount of additional funding of \$50,000 \$30,000 in a budget year for the total of all operational function sharing arrangements.~~

EDUCATION DEPARTMENT[281](cont'd)

b. ~~In lieu of maximum weightings, an~~ An area education agency shall be eligible for a maximum amount of additional funding of \$200,000 in a budget year for the total of all operational function sharing arrangements.

c. ~~In lieu of supplementary weighting of students, the~~ The department of management shall annually set a weighting for each area education agency to generate the approved operational function sharing dollars using each area education agency's special education cost-per-pupil amount and foundation level.

ITEM 4. Amend **281—Chapter 97**, implementation sentence, as follows:

These rules are intended to implement Iowa Code sections 257.6, 257.11 as amended by 2014 Iowa Acts, Senate File 2056 and House File 2271, and 257.12; and Iowa Code chapter 261E, and 2007 Iowa Acts, Senate File 588, section 6.

[Filed 8/8/14, effective 10/8/14]

[Published 9/3/14]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/3/14.

**ARC 1611C**

## **HUMAN SERVICES DEPARTMENT[441]**

**Adopted and Filed**

Pursuant to the authority of Iowa Code section 217.6, the Department of Human Services amends Chapter 7, "Appeals and Hearings," Iowa Administrative Code.

The Department has new programs that have been implemented or will be implemented in the future. When a new program is established, administrative rules found in 441—Chapter 7 regarding appeals and hearings must be updated to reflect changes pertaining to the new programs. The Department is required to ensure that constituents have access to due process if they are dissatisfied with a decision made by the Department. These amendments update the definition of "aggrieved person" to ensure those individuals affected by adverse action have the right to an appeal.

Specifically, the amendments update the definition of "aggrieved person" as follows:

1. A reference to the Iowa Health and Wellness Plan is added in numbered paragraph "3." Individuals who apply for or are denied benefits under this plan may be eligible to receive an appeal hearing if they meet the definition of an aggrieved person. The amendment makes that clear.

2. Numbered paragraph "7," pertaining to providers, is revised to include social service providers:

- Whose applications or reapplications for licensure were issued as provisional licenses when the providers believed they should have received full licenses, or
- Whose licenses were issued for a limited time frame.

3. Numbered paragraph "9," pertaining to mental health and developmental disabilities, is revised due to the April 1, 2014, implementation of the Autism Support Program. The adverse actions that may be taken by the Department for this program have been added, which will allow individuals affected by an adverse action the right to file an appeal regarding these actions.

Finally, the time frame that the Department has to request an appeal of the proposed decision is not clear in the current rules and has caused some confusion. Subrule 7.16(6) is updated to clarify the time frame that the Department has to request an appeal of the proposed decision.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 1515C** on June 25, 2014. The Department received no comments during the comment period. These amendments are identical to those published under Notice of Intended Action.

The Council on Human Services adopted these amendments on August 13, 2014.

These amendments do not include waiver provisions because the amendments confer benefits on those affected and are generally required by federal law that does not allow for waivers. Individuals may request a waiver under the Department's general rule on exceptions at 441—1.8(17A,217).

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

## HUMAN SERVICES DEPARTMENT[441](cont'd)

These amendments are intended to implement Iowa Code section 217.6.

These amendments will become effective November 1, 2014.

The following amendments are adopted.

ITEM 1. Amend rule **441—7.1(17A)**, definition of “Aggrieved person,” as follows:

“*Aggrieved person*” means a person against whom the department has taken an adverse action. This includes a person who meets any of the following conditions:

1. and 2. No change.
3. For medical assistance, healthy and well kids in Iowa, IowaCare, the Iowa Health and Wellness Plan, family planning services, and waiver services, a person (see numbered paragraph “7” for providers):
  - Whose request to be given an application was denied.
  - Whose application has been denied or has not been acted on in a timely manner.
  - Whose eligibility has been terminated, suspended or reduced.
  - Who has been notified that there will be a reduction in the level of benefits or services the person is eligible to receive.
    - Who has received a determination of the amount of medical expenses that must be incurred to establish income eligibility for the medically needy program or a determination of income for the purposes of imposing any premiums, enrollment fees or cost sharing.
      - Who has been notified that the level of services provided by a nursing facility is not needed based on a preadmission screening and resident review (PASRR) evaluation.
      - Who has been notified that level of care requirements have not been met.
      - Who has been aggrieved by a failure to take into account the appellant’s choice in assignment to a coverage group.
        - Who contests the effective date of assistance or services.
        - Who contests the amount or effective date of health insurance premium payments, healthy and well kids in Iowa premium payments, Medicaid for employed people with disabilities premium payments, IowaCare premium payments, or the spenddown amount under the medically needy program.
          - Who contests the amount of client participation.
          - Whose claim for payment or prior authorization has been denied.
          - Who has been notified that the reconsideration process has been exhausted and who remains dissatisfied with the outcome.
            - Who has received notice from the medical assistance hotline that services not received or services for which an individual is being billed are not payable by medical assistance.
            - Who has been notified that an overpayment of benefits has been established and repayment is requested.
              - Who has been denied requested nonemergency medical transportation services by the broker designated by the department pursuant to rule 441—78.13(249A) and has exhausted the grievance procedures established by the broker pursuant to 441—subrule 78.13(7).
  - 4. to 6. No change.
  - 7. For providers, a person or entity:
    - Whose license, certification, registration, approval, or accreditation has been denied or revoked or has not been acted on in a timely manner.
      - Whose claim for payment or request for prior authorization of payment has been denied in whole or in part and who states that the denial was not made according to department policy. Providers of Medicaid services must accept reimbursement based on the department’s methodology.
        - Whose contract as a Medicaid patient manager has been terminated.
        - Who has been subject to the withholding of a payment to recover a prior overpayment or who has received an order to repay an overpayment pursuant to 441—subrule 79.4(7).
        - Who has been notified that the managed care reconsideration process has been exhausted and who remains dissatisfied with the outcome.

## HUMAN SERVICES DEPARTMENT[441](cont'd)

- Whose application for child care quality rating has not been acted upon in a timely fashion, who disagrees with the department's quality rating decision, or whose certificate of quality rating has been revoked.
  - Who has been subject to an adverse action related to the Iowa electronic health record incentive program pursuant to rule 441—79.16(249A).
  - Who, as a managed care organization (MCO) provider or Iowa plan contractor when acting on behalf of a member, has a dispute regarding payment of claims.
  - Who has been notified that an application or reapplication for licensure was issued as a provisional license.
  - Who has been notified that a license has been issued for a limited time.
8. No change.
9. For mental health and ~~developmental disabilities~~ disability services, a person:
- Whose application for state payment under 441—Chapter 153, Division IV, has been denied or has not been acted upon in a timely manner.
  - Who has been notified that there will be a reduction or cancellation of services under the state payment program.
  - Whose request to be given an application was denied.
  - Whose eligibility has been terminated, suspended or reduced.
  - Who has been notified that there will be a reduction in the level of benefits or services the person is eligible to receive.
  - Who contests the effective date of assistance or services.
  - Who has been notified that the reconsideration process has been exhausted and who remains dissatisfied with the outcome.
  - Who contests the amount or effective date of cost-sharing requirements for the autism support program.
  - Whose service authorization requests for applied behavioral analysis services have been denied or reduced.

10. to 13. No change.

ITEM 2. Amend subrule 7.16(6) as follows:

**7.16(6)** *Appeal of the proposed decision by the department.* The appeals advisory committee acts as an initial screening device for the director and may recommend that the director review a proposed decision. That recommendation is not binding upon the director, and the director may decide to review a proposed decision without that committee's recommendation.

A request by the department for director's review of the proposed decision must be made in writing. The written request must be submitted to the appeals section in person or submitted through an electronic delivery method, such as electronic mail or facsimile, within ten calendar days of the date on which the proposed decision was sent. The day after the proposed decision is sent is the first day of the time period within which a request for director's review must be filed. When the time limit for filing falls on a holiday or a weekend, the time will be extended to the next workday.

When the director grants a review of a proposed decision on the department's request, the appeals section shall notify all other parties to the appeal of the review and send a copy of the request to all other parties. All other parties shall be provided ten calendar days from the date of notification to submit further written arguments or objections for consideration upon review.

Written arguments or objections must be mailed or submitted in person to the appeals section or submitted through an electronic delivery method, such as electronic mail, submission of an online form, or facsimile.

HUMAN SERVICES DEPARTMENT[441](cont'd)

The day after the notification is sent is the first day of the time period within which a response to the department's request for review must be filed. When the time limit for responding falls on a holiday or a weekend, the time will be extended to the next workday.

[Filed 8/13/14, effective 11/1/14]

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/3/14.

**ARC 1609C**

**HUMAN SERVICES DEPARTMENT[441]**

**Adopted and Filed**

Pursuant to the authority of Iowa Code section 249A.4 and 2014 Iowa Acts, House File 2463, sections 41 and 45, the Department of Human Services amends Chapter 79, "Other Policies Relating to Providers of Medical and Remedial Care," Iowa Administrative Code.

This amendment increases the fee schedule rates for emergency medical service providers by 10 percent from the rate that was in effect on June 30, 2014.

Notice of Intended Action for this amendment was published in the Iowa Administrative Bulletin as **ARC 1518C** on July 9, 2014. The amendment was also Adopted and Filed Emergency and published as **ARC 1519C** on the same date and became effective July 1, 2014. The Department received no comments during the comment period. This amendment is identical to that published under Notice of Intended Action and Adopted and Filed Emergency.

The Council on Human Services adopted this amendment on August 13, 2014.

This amendment does not provide for waivers in specified situations because the legislation does not specifically allow for waivers. Requests for waiver of any rule may be submitted under the Department's general rule on exceptions at 441—1.8(17A,217).

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

This amendment is intended to implement Iowa Code section 249A.4 and 2014 Iowa Acts, House File 2463, section 41.

This amendment will become effective October 8, 2014, at which time the Adopted and Filed Emergency amendment is hereby rescinded.

The following amendment is adopted.

Amend subrule **79.1(2)**, provider category "Ambulance," as follows:

Provider category	Basis of reimbursement	Upper limit
Ambulance	Fee schedule	Ground ambulance: Fee schedule in effect 6/30/ <del>13</del> <u>14</u> plus 10%. Air ambulance: Fee schedule in effect 6/30/ <del>13</del> <u>14</u> plus 10%.

[Filed 8/13/14, effective 10/8/14]

[Published 9/3/14]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/3/14.

**ARC 1608C****HUMAN SERVICES DEPARTMENT[441]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 249A.4 and 2014 Iowa Acts, House File 2463, sections 39, 40, 45, 61 and 62, the Department of Human Services amends Chapter 79, “Other Policies Relating to Providers of Medical and Remedial Care,” Iowa Administrative Code.

This amendment is based on 2014 Iowa Acts, House File 2463, which provides that community mental health centers (CMHCs) may choose to be reimbursed for the services provided to recipients of medical assistance at 100 percent of the reasonable costs of the services or in accordance with an alternative reimbursement rate methodology established by the medical assistance program’s managed care contractor for mental health services and approved by the Department of Human Services.

This amendment will reduce the number of CMHCs opting for the 100 percent cost-based reimbursement in favor of the new alternative statewide reimbursement rate methodology established by the Medicaid program’s managed care contractor for mental health services. The CMHCs that sought this type of alternative reimbursement methodology did so due to the inherent additional time involved in preparing and submitting cost reports and the inherent delays in the process for final cost settlement.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 1520C** on July 9, 2014. This amendment was also Adopted and Filed Emergency and published as **ARC 1521C** on the same date and became effective July 1, 2014.

The Department received a comment on the amendment from one respondent. The respondent requested that the phrase “until a new state fiscal year” be removed from the end of paragraph 79.1(25)“b.” Discussions between the respondent and CMHC stakeholders leading up to the proposal of this amendment included acknowledgment that once a CMHC elected to move away from cost reporting (i.e., 100 percent cost-based reimbursement), the CMHC would not be given the opportunity to go back to 100 percent cost-based reimbursement and that the selection of one reimbursement methodology is consistent with the intent that this reimbursement change be cost-neutral.

The Department agreed with the respondent’s comment and request to remove the language, as it would not be efficient or cost-effective to provide CMHCs with the opportunity to elect to use a different methodology each year, nor would it meet the intent of the legislation as originally proposed. Paragraph 79.1(25)“b” has been revised to omit the phrase “until a new state fiscal year.”

The Council on Human Services adopted this amendment on August 13, 2014.

This amendment does not provide for waivers in specified situations because the legislation does not specifically allow for waivers. Requests for waiver of any rule may be submitted under the Department’s general rule on exceptions at 441—1.8(17A,217).

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

This amendment is intended to implement Iowa Code section 249A.4 and 2014 Iowa Acts, House File 2463, sections 61 and 62.

This amendment will become effective October 8, 2014, at which time the Adopted and Filed Emergency amendment is hereby rescinded.

The following amendment is adopted.

Amend subrule 79.1(25) as follows:

**79.1(25) Reimbursement for community mental health centers (CMHCs) and providers of mental health services to county residents pursuant to a waiver approved under Iowa Code section 225C.7(3).**

*a. Reimbursement methodology for providers of mental health services to county residents pursuant to a waiver approved under Iowa Code section 225C.7(3).* Effective for services rendered on or after October 1, 2006, ~~community mental health centers and~~ providers of mental health services to county residents pursuant to a waiver approved under Iowa Code section 225C.7(3) that provide clinic services are paid on a reasonable-cost basis as determined by Medicare reimbursement principles.

*b. Reimbursement methodology for community mental health centers.* Effective for services rendered on or after July 1, 2014, community mental health centers may elect to be paid on either a 100

## HUMAN SERVICES DEPARTMENT[441](cont'd)

percent of reasonable costs basis, as determined by Medicare reimbursement principles, or in accordance with an alternative reimbursement rate methodology established by the Medicaid program's managed care contractor for mental health services and approved by the department of human services. Once a community mental health center chooses the alternative reimbursement rate methodology established by the Medicaid program's managed care contractor for mental health services, the community mental health center may not change its elected reimbursement methodology to 100 percent of reasonable costs.

c. *Cost-based reimbursement. Rates* For providers of mental health services to county residents pursuant to a waiver approved under Iowa Code section 225C.7(3) and CMHCs that elect the 100 percent of reasonable costs basis of reimbursement, rates are initially paid on an interim basis and then are adjusted retroactively based on submission of a financial and statistical report, pursuant to the following.

(1) to (5) No change.

b- d. *Reporting requirements.* All providers other than CMHCs that have elected the alternative reimbursement rate methodology established by the Medicaid program's managed care contractor for mental health services shall submit cost reports using Form 470-4419, Financial and Statistical Report. A ~~hospital~~ Hospital-based provider providers required to submit a cost report shall also submit the Medicare cost report, CMS Form 2552-96. The following requirements apply to all required cost reports.

(1) to (6) No change.

[Filed 8/13/14, effective 10/8/14]

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**ARC 1607C**

**HUMAN SERVICES DEPARTMENT[441]**

**Adopted and Filed**

Pursuant to the authority of Iowa Code section 237.3 and 2014 Iowa Acts, House File 2463, sections 43 and 45, the Department of Human Services amends Chapter 156, "Payments for Foster Care," Iowa Administrative Code.

These amendments add minimum foster group care payment rates, as required by the appropriation to the Department in 2014 Iowa Acts, House File 2463, section 43. The minimum reimbursement rates became effective July 1, 2014.

The amount shown in new paragraph 156.9(1)"e" for the rate for service level, community - D1, is slightly higher than the minimum amount in 2014 Iowa Acts, House File 2463, because the funding provided for D1 in the Department's appropriation for foster group care supports this slightly higher rate.

The current rule allows an additional amount to cover the maintenance needs of a young child when a foster group care facility provides foster care for a mother with her young child. These amendments clarify that the additional amount is in addition to the minimum reimbursement rates effective July 1, 2014.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 1522C** on July 9, 2014. This amendment was also Adopted and Filed Emergency and published as **ARC 1523C** on the same date and became effective July 1, 2014. The Department received no comments during the comment period. These amendments are identical to those published under Notice of Intended Action and Adopted and Filed Emergency.

The Council on Human Services adopted these amendments on August 13, 2014.

These amendments do not provide for waivers in specified situations because the legislation does not specifically allow for waivers. Requests for waiver of any rule may be submitted under the Department's general rule on exceptions at 441—1.8(17A,217).

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

These amendments are intended to implement Iowa Code section 237.3 and 2014 Iowa Acts, House File 2463, sections 43 and 45.

## HUMAN SERVICES DEPARTMENT[441](cont'd)

These amendments will become effective October 8, 2014, at which time the Adopted and Filed Emergency amendments are hereby rescinded.

The following amendments are adopted.

ITEM 1. Amend paragraph **156.9(1)“c”** as follows:

c. Reimbursement rates shall be adjusted based on the provider's rate in effect on October 31, 2006, to reflect an estimate that group care providers will provide an average of one hour per day of group remedial services and one hour per week of individual remedial services. The Subject to paragraph 156.9(1)“e,” the reimbursement rate shall be calculated as follows:

(1) to (7) No change.

(8) Step 8. Determine the child welfare service portion of the per diem rate by multiplying the new combined per diem rate determined in Step 6 by 14.38 percent.

EXAMPLE: Provider A has the following rates as of October 31, 2006:

- A combined daily maintenance and service rate of \$121.45;
- A Medicaid rate for service code 96153 of \$5.10 per 15 minutes, or \$20.40 per hour;
- A Medicaid rate for service code 96152 of \$19.92 per 15 minutes, or \$79.68 per hour.

Step 1.  $\$121.45 \times 365 \text{ days} = \$44,329.25$

Step 2.  $\$20.40 \times 365 \text{ days} = \$7,446.00$

Step 3.  $\$79.68 \times 52 \text{ weeks} = \$4,143.36$

Step 4.  $\$7,446.00 + \$4,143.36 = \$11,589.36$

Step 5.  $\$44,329.25 - \$11,589.36 = \$32,739.89$

Step 6.  $\$32,739.89 \div 365 \text{ days} = \$89.70$

Step 7.  $\$89.70 \times 0.8562 = \$76.80$  maintenance rate

Step 8.  $\$89.70 \times 0.1438 = \$12.90$  child welfare service rate

~~Provider~~ Subject to paragraph 156.9(1)“e,” provider A's rates are \$76.80 for maintenance and \$12.90 for child welfare services.

ITEM 2. Adopt the following **new** paragraph **156.9(1)“e”**:

e. Effective July 1, 2014, the combined service and maintenance reimbursement rate for a service level under the department's reimbursement methodology shall be at least the amount below. If a group foster care provider's reimbursement rate for a service level as of June 30, 2014, is more than the amount below, the provider's reimbursement shall remain at the higher rate.

(1) For service level, community - D1, the daily rate shall be at least \$87.60.

(2) For service level, comprehensive - D2, the daily rate shall be at least \$119.09.

(3) For service level, enhanced - D3, the daily rate shall be at least \$131.09.

ITEM 3. Adopt the following **new** paragraph **156.9(4)“b”**:

b. The additional amount included in the maintenance rate for the mother by this subrule to cover the maintenance needs of the young child shall be in addition to the minimum rate provided by paragraph 156.9(1)“e.”

[Filed 8/13/14, effective 10/8/14]

[Published 9/3/14]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/3/14.

**ARC 1606C**

**HUMAN SERVICES DEPARTMENT[441]**

**Adopted and Filed**

Pursuant to the authority of Iowa Code section 234.6 and 2014 Iowa Acts, House File 2463, division XV, section 97, the Department of Human Services amends Chapter 170, “Child Care Services,” Iowa Administrative Code.

## HUMAN SERVICES DEPARTMENT[441](cont'd)

These amendments expand the child care assistance (CCA) service criteria. These amendments allow a parent to work part-time and attend school part-time for at least 28 hours in the aggregate and remain eligible for CCA.

Notice of Intended Action for these amendments was published in the Iowa Administrative Bulletin as **ARC 1524C** on July 9, 2014. These amendments were also Adopted and Filed Emergency and published as **ARC 1525C** on the same date and became effective July 1, 2014. The Department received no comments during the comment period. These amendments are identical to those published under Notice of Intended Action and Adopted and Filed Emergency.

The Council on Human Services adopted these amendments on August 13, 2014.

These amendments do not provide for waivers in specified situations because the legislation does not specifically allow for waivers. Requests for waiver of any rule may be submitted under the Department's general rule on exceptions at 441—1.8(17A,217).

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

These amendments are intended to implement Iowa Code section 234.6 and 2014 Iowa Acts, House File 2463, division XV, section 97.

These amendments will become effective October 8, 2014, at which time the Adopted and Filed Emergency amendments are hereby rescinded.

The following amendments are adopted.

ITEM 1. Amend rule **441—170.1(237A)**, definition of “Vocational training or education,” as follows:

“*Vocational training or education*” means a training plan which includes a specific goal, that is, high school completion, improved English skills, or development of specific academic or vocational skills.

Training may be approved for high school completion activities, high school equivalency, adult basic education, English as a second language, or postsecondary education, up to and including an associate or a baccalaureate degree program.

~~1. Training may be approved for high school completion activities, adult basic education, GED, English as a second language, or postsecondary education, up to and including an associate or a baccalaureate degree program.~~

~~2. Training shall be on a full-time basis. The training facility shall define what is considered as full-time. Part-time plans may be approved only if the number of credit hours to complete training is less than full-time status, the required prerequisite credits or remedial course work is less than full-time status, or training is not offered on a full-time basis.~~

ITEM 2. Amend paragraph **170.2(2)“b”** as follows:

*b. Need for service.* Except for assistance provided under subparagraph 170.2(2)“b”(3), assistance shall be provided to a two-parent family only during the parents' coinciding hours of participation in training, employment, or job search. Each parent in the household shall meet one or more of the following requirements:

(1) The parent is in academic or vocational training. Training shall be on a full-time basis. The training facility shall define what is considered as full-time. Part-time training may be approved only if the number of credit hours to complete training is less than that required for full-time status, the required prerequisite credits or remedial course work is less than that required for full-time status, or training is not offered on a full-time basis. Child care services may be provided for the parent's hours of participation in the academic or vocational training and for actual travel time between the child care location and the training facility.

1. Child care provided while the parent participates in postsecondary education leading up to and including a baccalaureate degree program or vocational training shall be limited to a 24-month lifetime limit. A month is defined as a fiscal month or part thereof and shall generally have starting and ending dates that fall within two adjacent calendar months but shall only count as one month. Time spent in high school completion, adult basic education, ~~GED~~ high school equivalency, or English as a second language does not count toward the 24-month limit. PROMISE JOBS child care allowances provided

HUMAN SERVICES DEPARTMENT[441](cont'd)

while the parent is a recipient of the family investment program and participating in PROMISE JOBS components in postsecondary education or training shall count toward the 24-month lifetime limit.

2. No change.

(2) to (7) No change.

(8) The parent is employed and participating in academic or vocational training for 28 or more hours per week or an average of 28 or more hours per week in the aggregate, during the month. Child care services may be provided for the hours of employment, the hours of participation in academic or vocational training and for actual travel time between the child care location and the place of employment or training. All of the requirements relating to academic or vocational training found at subparagraph 170.2(2)“b”(1), except for the requirement to be enrolled full-time, apply to the part-time training in this subparagraph.

ITEM 3. Amend paragraph **170.2(3)“a”** as follows:

*a. Priority groups.* As funds are determined available, families shall be served on a statewide basis from a service-area-wide waiting list as specified in subrule 170.3(4) based on the following schedule in descending order of prioritization.

(1) Families with an income at or below 100 percent of the federal poverty level whose members ~~are employed, for~~ at least 28 hours per week in the aggregate, are employed or are participating at a satisfactory level in an approved training program or educational program, and parents with a family income at or below 100 percent of the federal poverty level who are under the age of 21 and are participating in an educational program leading to a high school diploma or equivalent.

(2) Parents under the age of 21 with a family income at or below 100 percent of the federal poverty guidelines who are participating, at a satisfactory level, in an approved training program or in an education program.

(3) Families with an income of more than 100 percent but not more than 145 percent of the federal poverty guidelines whose members ~~are employed, for~~ at least 28 hours per week in the aggregate, are employed or are participating at a satisfactory level in an approved training program or educational program.

(4) Families with an income at or below 200 percent of the federal poverty guidelines whose members are employed at least 28 hours per week with a special-needs child as a member of the family.

[Filed 8/13/14, effective 10/8/14]

[Published 9/3/14]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/3/14.

**ARC 1599C**

## **REGENTS BOARD[681]**

### **Adopted and Filed**

Pursuant to the authority of Iowa Code section 262.9(3), the Board of Regents hereby amends Chapter 4, “Traffic and Parking at Universities,” Iowa Administrative Code.

The amendment revises subrule 4.31(2) to increase monetary sanctions for two parking offenses at Iowa State University.

Notice of Intended Action was published in the Iowa Administrative Bulletin on April 16, 2014, as **ARC 1418C**. Comments were accepted until May 7, 2014. No comments were received. The adopted amendment is identical to the proposed amendment.

The Board of Regents adopted the amendment on August 6, 2014.

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

This amendment is intended to implement Iowa Code section 262.9(3).

This amendment shall become effective on October 8, 2014.

The following amendment is adopted.

## REGENTS BOARD[681](cont'd)

Amend subrule 4.31(2) as follows:

**4.31(2) Sanction.** Reasonable monetary sanctions may be imposed for violation of these rules. The amount of the sanction approved by the board of regents, state of Iowa, is as follows:

Offenses	Sanctions for Each Offense
Altering, forging or counterfeiting any parking permit (4.30(5))	\$150
Unauthorized possession and use of a parking permit (4.30(5))	\$150
Failure to comply with signs regulating campus traffic flow (681—4.27(262))	\$30
Driving on campus walks or lawns (4.27(6), 4.27(8))	\$30
Driving on closed streets (4.27(3))	\$30
Driving on bike paths (4.27(7))	\$30
Access to restricted areas by means other than established gate openings (4.29(5))	\$30
Moving or driving around a barricade (4.29(5))	\$30
Improper use of gate card (681—4.29(262))	\$20
Illegal parking (4.29(7))	<del>\$30</del> <u>\$40</u>
Improper parking (4.29(7))	\$15
Overtime parking at meters (4.29(2))	\$10
Parking without an appropriate permit in a reserved lot or space (681—4.29(262))	<del>\$25</del> <u>\$30</u>
Improper affixing or failure to display a permit (681—4.28(262))	\$5
Failure to purchase a parking receipt (4.29(2))	\$10
Improper parking in a space or stall designated for persons with disabilities (681—4.29(262), 4.30(4))	\$200
Failure to display a current bicycle registration (4.28(4))	\$5
Bicycle improperly parked (4.29(9))	\$7.50
Improper use of roller skates, roller blades or skateboard (4.27(9))	\$25
All other violations	\$15

Violations that continue for more than one hour may receive additional sanctions.

Sanctions may be assessed against the owner or operator of the vehicle involved in each violation or against any person in whose name the vehicle is registered or parking privileges have been granted and may be charged to the violator's university account. Sanctions may be added to student tuition bills or may be deducted from student deposits or from the salaries or wages of employees or from other funds in the possession of the university.

[Filed 8/11/14, effective 10/8/14]

[Published 9/3/14]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/3/14.

**ARC 1612C**

**TRANSPORTATION DEPARTMENT[761]**

**Adopted and Filed**

Pursuant to the authority of Iowa Code sections 307.10, 307.12 and 321.178A, the Iowa Department of Transportation, on August 14, 2014, adopted amendments to Chapter 604, "License Examination," and Chapter 634, "Driver Education," Iowa Administrative Code.

Notice of Intended Action for these amendments was published in the July 9, 2014, Iowa Administrative Bulletin as **ARC 1526C**.

## TRANSPORTATION DEPARTMENT[761](cont'd)

Item 1 eliminates outdated language that no longer conforms to practice by eliminating language that provides for the random administration of driving tests according to applicants' birth dates.

Item 2 updates the implementation sentence for Chapter 604 to include reference to Iowa Code section 321.178A.

Item 3 reserves two rules within Chapter 634.

Item 4 adds new rule 761—634.11(321) to implement Iowa Code section 321.178A by establishing the procedure by which a teaching parent, as defined in Iowa Code section 321.178A, may obtain approval from the Department to instruct a student in an approved course of driver's education and the procedure by which the teaching parent may obtain a certificate of completion of driver's education on behalf of the student upon the student's successful completion of the approved course of instruction.

Item 4 also establishes the procedure by which third-party vendors may obtain approval to offer a proposed course of instruction to teaching parents. As required by Iowa Code section 321.178A, Item 4 provides that approved courses shall be posted on the Department's Internet site and that a teaching parent may only instruct a student using an approved course selected from the list posted on the Department's Internet site.

As required by Iowa Code section 321.178A, Items 1 and 4 require a student who has completed parent-taught driver's education to successfully complete a driving test before being approved to obtain an intermediate license.

Item 5 updates the implementation sentence for Chapter 634 to include reference to Iowa Code section 321.178A.

Item 6 includes an appendix to new rule 761—634.11(321) that sets forth the course content requirements.

These rules do not provide for waivers. Any person who believes that the person's circumstances meet the statutory criteria for a waiver may petition the Department for a waiver under 761—Chapter 11.

These amendments are identical to those published under Notice of Intended Action.

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

These amendments are intended to implement Iowa Code section 321.178A.

These amendments will become effective October 8, 2014.

The following amendments are adopted.

ITEM 1. Amend paragraph **604.31(2)“a”** as follows:

a. The applicant is applying for the applicant's first Iowa driver's license that permits unaccompanied driving following successful completion of the appropriate Iowa-approved course or courses. The appropriate Iowa-approved courses are the following: driver education, other than driver education by a teaching parent under rule 761—634.11(321), for a Class C driver's license other than motorized bicycle;<sub>2</sub> driver education and motorcycle rider education for a Class M driver's license or motorcycle endorsement;<sub>2</sub> and motorized bicycle education for a motorized bicycle license. However;<sub>2</sub>

~~(1) The department may select dates and require a driving test of applicants whose birth dates fall on the selected dates. The department shall notify the Iowa department of education quarterly of the dates selected.~~

~~(2) If if an applicant is under the age of 18, a driving test is required if so requested by the applicant's parent, guardian, or instructor.~~

ITEM 2. Amend rule **761—604.31(321)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code sections 321.174, 321.178, 321.178A, 321.180, 321.180A, 321.180B, 321.186, 321.189, 321.193, 321.196 and 321.198.

ITEM 3. Reserve rules **761—634.9** and **761—634.10**.

ITEM 4. Adopt the following **new** rule 761—634.11(321):

**761—634.11(321) Driver education—teaching parent.** As an alternative to a driver education course offered by a course provider approved under rule 761—634.4(321), a teaching parent may instruct a student in an approved course of driver education.

## TRANSPORTATION DEPARTMENT[761](cont'd)

**634.11(1) Definitions.** As used in this rule:

*“Approved course”* means a driver education curriculum approved by the department that meets the requirements of Iowa Code section 321.178A and is appropriate for teaching-parent-directed driver education and related street or highway driving instruction.

*“Clear driving record”* means the individual currently and during the prior two-year period has not been identified as a candidate for suspension or revocation of a driver’s license under the habitual offender or habitual violator provisions of rule 761—615.9(321) or rule 761—615.13(321); is not subject to a driver’s license suspension, revocation, denial, cancellation, disqualification, or bar; and has no record of a conviction for a moving traffic violation determined to be the cause of a motor vehicle accident.

*“Course vendor”* means a third-party vendor that makes available commercially an approved course.

*“Student”* means a person between the ages of 14 and 21 years who is within the custody and control of the teaching parent and who holds a valid Iowa noncommercial instruction permit.

*“Teaching parent”* means the same as defined in Iowa Code section 321.178A.

**634.11(2) Application to serve as a teaching parent.**

a. A person who wishes to provide driver education as a teaching parent to a student shall submit an application on a form provided by the department to the office of driver services at the address indicated on the form.

b. The department shall review the application and shall deny the application for any of the following reasons:

(1) The person does not meet the qualifications to serve as a teaching parent set forth in Iowa Code section 321.178A.

(2) The person does not have a clear driving record.

(3) The application does not properly identify a student eligible to be instructed in driver education by the person.

(4) The department has determined the application should be rejected for any reason listed in Iowa Code section 321.13.

c. If the application is denied, the department shall issue a letter of denial to the person explaining the reason or reasons for the denial.

d. If the application is approved, the department shall issue a letter of approval to the person to serve as a teaching parent for the student identified in the application.

**634.11(3) Instruction by a teaching parent.**

a. A person approved to serve as a teaching parent shall instruct the student using an approved course.

b. The teaching parent shall select the course to be used from the list of approved courses posted on the department’s Internet site and shall purchase the course directly from the applicable course vendor.

c. No person shall provide driver education as a teaching parent until approved by the department, and the department shall not recognize driver education that was:

(1) Provided by a person before the person’s approval as a teaching parent.

(2) Provided by a person who has not been approved as a teaching parent.

(3) Provided to a person who is not a student as defined in subrule 634.11(1).

(4) Offered under a course other than an approved course.

**634.11(4) Course completion—certificate of completion.**

a. Upon the student’s completion of an approved course, the teaching parent shall apply for a certificate of completion on behalf of the student. The teaching parent shall provide evidence showing the student’s completion of an approved course and substantial compliance with the requirements of Iowa Code section 321.178A, by affidavit signed by the teaching parent on a form provided by the department. The teaching parent shall include with the application all documentation, statements, certifications, and logs required by Iowa Code section 321.178A. The application and all required documentation, statements, certifications, and logs shall be submitted to the office of driver services at the address indicated on the form.

b. The department shall review the application and evidence submitted and shall deny certification of completion if:

## TRANSPORTATION DEPARTMENT[761](cont'd)

(1) The course was not conducted by a person approved by the department to serve as a teaching parent for the student for whom certification is sought.

(2) The application does not properly identify a student eligible to be instructed in driver education by the teaching parent.

(3) The application and evidence do not demonstrate the student's successful completion of an approved course.

(4) The application and evidence do not include all documentation, statements, certifications, and logs required by Iowa Code section 321.178A in adequate and proper form and content.

(5) The department has determined that the application should be rejected for any reason listed in Iowa Code section 321.13.

*c.* If the application is denied, the department shall issue a letter of denial to the teaching parent explaining the reason or reasons for the denial.

*d.* If the application is approved, the department shall issue a certificate of completion to the student identified in the application. A certification of completion issued by the department under this subrule shall constitute proof of successful completion of an Iowa-approved course in driver education but shall not be grounds for waiver of a driving test under 761—subrule 604.31(2).

**634.11(5) Course approval.**

*a.* A vendor that wishes to offer a driver education curriculum as an approved course in Iowa shall submit an application on a form provided by the department to the office of driver services at the address indicated on the form, along with a copy of all proposed curriculum materials. A vendor that wishes to offer an electronic curriculum may provide a uniform resource locator (URL) for the proposed electronic materials but must also provide physical copies of the proposed materials.

*b.* To be designated as an approved course, the curriculum submitted must, at a minimum, meet the requirements of Iowa Code section 321.178A, be appropriate for teaching-parent-directed driver education and related street or highway instruction, and meet or exceed the required content set forth in the Appendix to this rule.

*c.* The department shall review the application and proposed curriculum and shall issue a letter of denial to the course vendor explaining the reason or reasons for denial if the proposed curriculum does not meet the requirements for an approved course.

*d.* If the proposed curriculum is approved, the department shall issue a certificate of approval to the vendor designating the curriculum as an approved course and shall list the approved course on the department's Internet site. Course approval will be issued for one calendar year or for the remainder of a calendar year. The approval expires on December 31 and must be renewed annually by the submission of an application on a form provided by the department and all required materials as set forth in this subrule at least 60 days prior to the expiration date. Notwithstanding this paragraph, a course approval issued before December 31, 2014, shall not expire until December 31, 2015.

ITEM 5. Amend **761—Chapter 634**, implementation sentence, as follows:

These rules are intended to implement Iowa Code sections 321.178, 321.178A, 321.180B and 321.194.

ITEM 6. Adopt the following **new** appendix in **761—Chapter 634**:

Appendix to Rule 761—634.11(321)

To be designated as an approved course, a curriculum must, at a minimum, meet the requirements of Iowa Code section 321.178A, be appropriate for teaching-parent-directed driver education and related street or highway instruction, and meet or exceed the required content listed below:

## TRANSPORTATION DEPARTMENT[761](cont'd)

1. *Duration and required content.* The course must provide for both classroom and behind-the-wheel instruction. As used in this rule, “*classroom instruction*” means instruction provided by a teaching parent in a private setting using printed or electronic course materials, and “*behind-the-wheel instruction*” means street or highway driving instruction provided by a teaching parent in a motor vehicle operated by the student.
  - a. Classroom instruction shall consist of at least 30 clock hours of classroom instruction and shall include all of the following:
    - i. Four hours of instruction concerning substance abuse.
    - ii. A minimum of 20 minutes of instruction concerning railroad crossing safety.
    - iii. Instruction relating to becoming an organ donor under the revised uniform anatomical gift Act as provided in Iowa Code chapter 142C.
    - iv. Instruction providing awareness about sharing the road with bicycles and motorcycles.
  - b. Behind-the-wheel instruction shall consist of at least 40 hours of street or highway driving including 4 hours of driving after sunset and before sunrise while accompanied by the teaching parent.
2. *Required topics.* The course may follow any format the vendor determines, provided all of the following topics are properly and adequately covered, as detailed in the course application form provided by the department:
  - a. Traffic law – *classroom instruction*
    - i. Introduction to driver education and driving laws and privileges.
    - ii. Understanding your license to drive.
    - iii. Right-of-way.
    - iv. Traffic control devices.
    - v. Controlling traffic flow.
    - vi. Alcohol and other drugs.
    - vii. Cooperating with other roadway users.
  - b. Driver preparation – *classroom and behind-the-wheel instruction*
    - i. Pre-drive tasks.
    - ii. Occupant protection.
    - iii. Symbols and devices.
    - iv. Starting tasks.
    - v. Vehicle operation and control tasks.
    - vi. Post-drive tasks.
    - vii. In-car progress assessment.
    - viii. Driving plan (*classroom instruction*).
  - c. Vehicle movements – *classroom and behind-the-wheel instruction*
    - i. Visual attention, mental attention and communication.
    - ii. Reference points.
    - iii. Vehicle balance.
    - iv. Vehicle maneuvers.
    - v. In-car progress assessment (*behind-the-wheel instruction*).
  - d. Driver readiness – *classroom and behind-the-wheel instruction*
    - i. Driving practices.
    - ii. Fatigue.
    - iii. Aggressive driving.
    - iv. In-car progress assessment (*behind-the-wheel instruction*).

## TRANSPORTATION DEPARTMENT[761](cont'd)

- e. Risk reduction – *classroom and behind-the-wheel instruction*
  - i. Risk factors.
  - ii. Space management.
  - iii. In-car progress assessment (*behind-the-wheel instruction*).
- f. Environmental factors – *classroom and behind-the-wheel instruction*
  - i. Environmental characteristics.
  - ii. Environmental risk factors.
  - iii. In-car progress assessment (*behind-the-wheel instruction*).
- g. Distractions – *classroom and behind-the-wheel instruction*
  - i. Distractions.
  - ii. Multi-task performances.
  - iii. In-car progress assessment (*behind-the-wheel instruction*).
- h. Alcohol and other drugs – *classroom instruction*
  - i. Introduction of alcohol and other drug problems.
  - ii. Nature of alcohol-related crash problems.
  - iii. Physiological effects of alcohol.
  - iv. Psychological effects of alcohol.
  - v. Other drug effects on the driving task.
  - vi. Zero-tolerance in the driving environment.
- i. Vehicle movement and reference points – *behind-the-wheel instruction*
  - i. Vehicle movements and reference points (entering and exiting traffic and parking).
  - ii. In-car progress assessment (*behind-the-wheel instruction*).
- j. Adverse conditions – *classroom instruction*
  - i. Adverse weather and reduced visibility conditions.
  - ii. Traction loss.
  - iii. Emergencies.
- k. Vehicle requirements – *classroom and behind-the-wheel instruction*
  - i. Vehicle malfunctions (*classroom instruction*).
  - ii. Vehicle maintenance (*classroom instruction*).
  - iii. Trip planning (*classroom instruction*).
  - iv. Adverse conditions and vehicle requirements – off-street simulated practice (*behind-the-wheel instruction*).
  - v. In-car progress assessments (*behind-the-wheel instruction*).
- l. Consumer responsibility – *classroom and behind-the-wheel instruction*
  - i. Vehicle use and ownership (*classroom instruction*).
  - ii. Vehicle insurance (*classroom instruction*).
  - iii. Environmental protection and litter prevention (*classroom instruction*).
  - iv. Anatomical gift Act – organ donor (*classroom instruction*).

## TRANSPORTATION DEPARTMENT[761](cont'd)

- v. Trip planning (*behind-the-wheel instruction*).
- vi. In-car progress assessment (*behind-the-wheel instruction*).
- m. Personal responsibility (*classroom and behind-the-wheel instruction*).
  - i. Comprehensive classroom progress assessment (testing) (*classroom instruction*).
  - ii. Driver licensing (*classroom instruction*).
  - iii. In-car progress assessment (*behind-the-wheel instruction*).

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