

State of Iowa

Iowa
Administrative
Code
Supplement

Biweekly

March 2, 1994



PHYLLIS BARRY

ADMINISTRATIVE CODE EDITOR

KATHLEEN BATES

ADMINISTRATIVE CODE ASSISTANT

PUBLISHED BY THE
STATE OF IOWA
UNDER AUTHORITY OF IOWA CODE SECTION 17A.6

Pursuant to Iowa Code section 17A.6, the Iowa Administrative Code [IAC] Supplement is published biweekly.

The Supplement contains replacement pages to be inserted in the loose-leaf IAC according to instructions in the respective Supplement. Replacement pages incorporate amendments to existing rules or entirely new rules or emergency or temporary rules which have been adopted by the agency and filed with the Administrative Rules Coordinator as provided in sections 7.17, 17A.4 to 17A.6. [It may be necessary to refer to the Iowa Administrative Bulletin* to determine the specific change.] The Supplement may also contain new or replacement pages for "General Information," Tables of Rules Implementing Statutes, and Index.

When objections are filed to rules by the Administrative Rules Review Committee, Governor or the Attorney General, the context will be published with the rule to which the objection applies.

Any delay by the Administrative Rules Review Committee of the effective date of filed rules will also be published in the Supplement.

Each page in the Supplement contains a line at the top similar to the following:

IAC 9/24/86

Employment Services[341]

Ch 1, p.7

*Section 17A.6 has mandated that the "Iowa Administrative Bulletin" be published in pamphlet form. The Bulletin will contain Notices of Intended Action, Filed Rules, effective date delays, Economic Impact Statements, and the context of objections to rules filed by the Committee, Governor, or the Attorney General.

In addition, the Bulletin shall contain all proclamations and executive orders of the Governor which are general and permanent in nature, as well as other materials which are deemed fitting and proper by the Committee.

INSTRUCTIONS

FOR

Updating Iowa Administrative Code
with Biweekly Supplement

NOTE: Please review the "Preface" for both the Iowa Administrative Code and Biweekly Supplement and follow carefully the updating instructions.

The boldface entries in the left-hand column of the updating instructions correspond to the tab sections in the IAC Binders.

Obsolete pages of IAC are listed in the column headed "Remove Old Pages." New and replacement pages in this Supplement are listed in the column headed "Insert New Pages." It is important to follow instructions in both columns.

Editor's phone: (515) 281-3355 or (515) 281-8157

UPDATING INSTRUCTIONS March 2, 1994, Biweekly Supplement

[Previous Supplement dated 2/16/94]

IOWA ADMINISTRATIVE CODE

	Remove Old Pages*	Insert New Pages
Historical Division [223]	Ch 55, p. 1 — Ch 57, p. 2	
EDUCATION		
DEPARTMENT [281]	Analysis, p.1—Analysis, p.3 Ch 12, p. 1 — Ch 12, p. 16	Analysis, p.1—Analysis, p.3 Ch 12, p. 1 — Ch 12, p. 20
HUMAN SERVICES		
DEPARTMENT [441]	Ch 7, p. 3, 3a Ch 7, p. 11, 12 Ch 41, p. 21, 22 Ch 41, p. 45 — Ch 41, p. 50 Ch 41, p. 57, 58 Ch 41, p. 65, 66 Ch 41, p. 77, 78 Ch 42, p. 5 — Ch 42, p. 7 Ch 43, p. 3 — Ch 43, p. 6 Ch 49, p. 5 — Ch 49, p. 8 Ch 51, p. 1 — Ch 52, p. 4 Ch 58, p. 6 — Ch 58, p. 9	Ch 7, p. 3, 3a Ch 7, p. 11, 12 Ch 41, p. 21, 22 Ch 41, p. 45 — Ch 41, p. 50 Ch 41, p. 57, 58 Ch 41, p. 65, 66 Ch 41, p. 77, 78 Ch 42, p. 5 — Ch 42, p. 7 Ch 43, p. 3 — Ch 43, p. 6 Ch 49, p. 5 — Ch 49, p. 8 Ch 51, p. 1 — Ch 52, p. 4 Ch 58, p. 6 — Ch 58, p. 9

*It is recommended that "Old Pages" be retained indefinitely in a place of your choice. They may prove helpful in tracing the history of a rule.

Remove Old Pages***Insert New Pages****HUMAN SERVICES
DEPARTMENT[441]**

(Cont'd)

Ch 75, p. 3, 4
 Ch 75, p. 9, 10
 Ch 75, p. 17, 18
 Ch 75, p. 21 — Ch 75, p. 30
 Ch 75, p. 37 — Ch 75, p. 40
 Ch 75, p. 43
 Ch 77, p. 5, 6
 Ch 77, p. 19
 Ch 78, p. 57, 58
 Ch 78, p. 61, 62
 Ch 83, p. 5 — Ch 83, p. 8
 Ch 83, p. 17
 Ch 85, p. 11 — Ch 86, p. 1
 Ch 86, p. 4, 5
 Ch 86, p. 8
 Ch 93, p. 1 — Ch 93, p. 24
 Ch 93, p. 27 — Ch 93, p. 30
 Ch 93, p. 33 — Ch 93, p. 48
 Ch 93, p. 51 — Ch 93, p. 69

Ch 75, p. 3, 4
 Ch 75, p. 9, 10
 Ch 75, p. 17, 18
 Ch 75, p. 21 — Ch 75, p. 30
 Ch 75, p. 37 — Ch 75, p. 40
 Ch 75, p. 43
 Ch 77, p. 5, 6
 Ch 77, p. 19
 Ch 78, p. 57, 58
 Ch 78, p. 61, 62
 Ch 83, p. 5 — Ch 83, p. 8
 Ch 83, p. 17
 Ch 85, p. 11 — Ch 86, p. 1
 Ch 86, p. 4, 5
 Ch 86, p. 8
 Ch 93, p. 1 — Ch 93, p. 24
 Ch 93, p. 27 — Ch 93, p. 30
 Ch 93, p. 33 — Ch 93, p. 48
 Ch 93, p. 51 — Ch 93, p. 70

**Racing and Gaming
Commission[491]**

Ch 20, p. 2, 3
 Ch 20, p. 8
 Ch 24, p. 16 — Ch 25, p. 1
 Ch 25, p. 4, 5

Ch 20, p. 2, 3
 Ch 20, p. 8
 Ch 24, p. 16 — Ch 25, p. 1
 Ch 25, p. 4, 5

**Environmental Protection
Commission[567]**

Ch 72, p. 8 — Ch 72, p. 22

Ch 72, p. 8 — Ch 72, p. 22

**Natural Resource
Commission[571]**

Analysis, p. 2, 2a
 Analysis, p.5—Analysis, p.6a
 Ch 10, p. 1, 2
 Ch 22, p. 5 — Ch 23, p. 4
 Ch 40, p. 1, 2
 Ch 40, p. 5, 6
 Ch 53, p. 1 — Ch 54, p. 1
 Ch 76, p. 1 — Ch 77, p. 14

Analysis, p. 2, 2a
 Analysis, p.5—Analysis, p.6a
 Ch 10, p. 1, 2
 Ch 22, p. 5 — Ch 23, p. 4
 Ch 40, p. 1, 2
 Ch 40, p. 5, 6
 Ch 53, p. 1 — Ch 54, p. 1
 Ch 76, p. 1 — Ch 77, p. 13

*It is recommended that "Old Pages" be retained indefinitely in a place of your choice.
 They may prove helpful in tracing the history of a rule.

Remove Old Pages*

Insert New Pages

**Professional Licensure
Division[645]**

Analysis, p. 2a, 3
Ch 31, p. 1—Objection, Ch 39
Ch 60, p. 3, 4
Ch 60, p. 9 — Ch 60, p. 11
Ch 63, p. 1 — Ch 65, p. 4

Analysis, p. 2a, 3
Ch 31, p. 1 — Ch 39, p. 1
Ch 60, p. 3, 4
Ch 60, p. 9 — Ch 60, p. 11
Ch 63, p. 1 — Ch 65, p. 4

**PUBLIC SAFETY
DEPARTMENT[661]**

Ch 20, p. 1, 2

Ch 20, p. 1, 2

**REVENUE AND FINANCE
DEPARTMENT[701]**

Ch 20, p.13—Objection, 20.10

Ch 20, p. 13, 14

Index Volume

"G" Tab. p. 1—21
"I" Tab, p. 1, 2

"G" Tab, p. 1—21
"I" Tab, p. 1, 2

*It is recommended that "Old Pages" be retained indefinitely in a place of your choice. They may prove helpful in tracing the history of a rule.



EDUCATION DEPARTMENT[281]

Created by 1986 Iowa Acts, chapter 1245, section 1401.

Prior to 9/7/88, see Public Instruction Department[670]

(Replacement pages for 9/7/88 published in 9/21/88 IAC)

TITLE I GENERAL INFORMATION— DEPARTMENT OPERATIONS

CHAPTER 1

ORGANIZATION AND OPERATION

- 1.1(17A) State board of education
- 1.2(17A) Director of education
- 1.3(17A) Department of education

CHAPTER 2

PETITIONS FOR RULE MAKING

(Uniform Rules)

- 2.1(17A) Petition for rule making
- 2.3(17A) Inquiries

CHAPTER 3

DECLARATORY RULINGS

(Uniform Rules)

- 3.1(17A) Petition for declaratory ruling
- 3.3(17A) Inquiries

CHAPTER 4

AGENCY PROCEDURE FOR RULE MAKING

(Uniform Rules)

- 4.3(17A) Public rule-making docket
- 4.4(17A) Notice of proposed rule making
- 4.5(17A) Public participation
- 4.6(256) Regulatory flexibility analysis

CHAPTER 5

PUBLIC RECORDS AND FAIR INFORMATION PRACTICES

(Uniform Rules)

- 5.1(256) Definitions
- 5.3(256) Requests for access to records
- 5.6(256) Procedure by which additions, dissents, or objections may be entered into certain records
- 5.9(256) Disclosures without the consent of the subject
- 5.10(256) Routine use
- 5.11(256) Consensual disclosure of confidential records
- 5.12(256) Release to a subject
- 5.13(256) Availability of records

- 5.14(256) Personally identifiable information
- 5.15(256) Other groups of records
- 5.16(256) Applicability

CHAPTER 6

APPEAL PROCEDURES

- 6.1(256) Definitions
- 6.2(290) Type of appeal
- 6.3(290,17A) Manner of appeal
- 6.4(290) Subpoena of witnesses and costs
- 6.5(17A) Discovery
- 6.6(17A) Participants in the hearing
- 6.7(17A) Appeal hearing
- 6.8(17A) Communications
- 6.9(17A) Record
- 6.10(290,17A) Decision and review
- 6.11(290) Finality of decision
- 6.12(17A) Application for rehearing of final decision
- 6.13(17A) Rehearing

CHAPTERS 7 to 10 Reserved

TITLE II
ACCREDITED SCHOOLS AND SCHOOL DISTRICTS

CHAPTER 13
INTER-DISTRICT SHARING
Reserved

CHAPTER 11
GENERAL APPROVAL STANDARDS
(APPLICABLE THROUGH JUNE 30, 1989)

- DIVISION I
GENERAL STANDARDS
- 11.1(256) General standards
- DIVISION II
DEFINITIONS
- 11.2(256) Definitions
- DIVISION III
ADMINISTRATION
- 11.3(256) Administration
- DIVISION IV
SCHOOL PERSONNEL
- 11.4(256) School personnel
- DIVISION V
EDUCATIONAL PROGRAMS
- 11.5(256) Educational program
- DIVISION VI
ACTIVITY PROGRAM
- 11.6(256) Activity program
- DIVISION VII
STAFF IN-SERVICE
- 11.7(256) In-service growth of staff

- CHAPTER 14
SHARED TIME
- 14.1(256) Policy and purpose
- 14.2(256) Applicability of rules
- 14.3(256) Who may apply
- 14.4(256) Content of application
- 14.5(256) Report required
- 14.6(256) Form of application
- 14.7(256) Where to file
- 14.8(256) Time for filing
- 14.9(256) Local policies

CHAPTER 15
USE OF TELECOMMUNICATIONS
FOR INSTRUCTION BY SCHOOLS

- 15.1(256) Purpose
- 15.2(256) Definitions
- 15.3(256) Interactivity
- 15.4(256) Course eligibility
- 15.5(256) Teacher preparation and accessibility
- 15.6(256) School responsibilities

CHAPTER 12
GENERAL ACCREDITATION
STANDARDS

CHAPTER 16
EDUCATIONAL OPPORTUNITIES
OUTSIDE A STUDENT'S RESIDENT
DISTRICT

- (APPLICABLE JULY 1, 1989)
- DIVISION I
GENERAL STANDARDS
- 12.1(256) General standards
- DIVISION II
DEFINITIONS
- 12.2(256) Definitions
- DIVISION III
ADMINISTRATION
- 12.3(256) Administration
- DIVISION IV
SCHOOL PERSONNEL
- 12.4(256) School personnel
- DIVISION V
EDUCATION PROGRAM
- 12.5(256) Education program
- DIVISION VI
ACTIVITY PROGRAM
- 12.6(256) Activity program
- DIVISION VII
STAFF DEVELOPMENT
- 12.7(256) Staff development
- DIVISION VIII
EXEMPTION PROCESS
- 12.8(256) Standards exemption process

- 16.1(256) "Educational opportunity" defined
- 16.2(256) "Substantial educational opportunity" defined

CHAPTER 17
OPEN ENROLLMENT

- 17.1(282) Intent and purpose
- 17.2(282) Definitions
- 17.3(282) Application process for the 1990-1991 and subsequent school years
- 17.4(282) Filing after the October 30 deadline—good cause
- 17.5 Reserved
- 17.6(282) Restrictions to open enrollment requests
- 17.7(282) Open enrollment for kindergarten
- 17.8(282) Requirements applicable to parents/guardians and students
- 17.9(282) Transportation
- 17.10(282) Method of finance
- 17.11(282) Special education students
- 17.12(282) Laboratory school provisions
- 17.13(282) Applicability

CHAPTERS 18 to 20
Reserved

TITLE III
COMMUNITY COLLEGES

CHAPTER 21
COMMUNITY COLLEGES

DIVISION I
APPROVAL STANDARDS

- 21.1 Reserved
- 21.2(280A) Administration
- 21.3(280A) Faculty
- 21.4(280A) Curriculum and evaluation
- 21.5(280A) Library or learning resource center
- 21.6(280A) Student services
- 21.7(280A) Laboratories, shops, equipment and supplies
- 21.8(280A) Physical plant
- 21.9(280A) Building and site approval
- 21.10(280A) Approval procedures
- 21.11(280A) Progress toward regional accreditation
- 21.12(280A) Standards for community colleges
- 21.13 to 21.19 Reserved

DIVISION II
COMMUNITY COLLEGE ENERGY APPROPRIATIONS

- 21.20 to 21.29 Reserved

DIVISION III
INSTRUCTION COURSE FOR DRINKING DRIVERS

- 21.30(321J) Course
- 21.31(321J) Fee established
- 21.32 to 21.34 Reserved

DIVISION IV
JOBS NOW CAPITALS ACCOUNT

- 21.35 to 21.44 Reserved

DIVISION V
STATE COMMUNITY COLLEGE FUNDING PLAN
21.45(286A) State community college funding plan

DIVISION VI
INTERCOLLEGIATE ATHLETIC COMPETITION
21.46 to 21.56 Reserved

DIVISION VII
QUALITY INSTRUCTIONAL CENTER INITIATIVE
21.57(280A) Purpose
21.58(280A) Definitions
21.59(280A) Eligibility requirements
21.60(280A) Timelines
21.61(280A) Evaluation and selection criteria
21.62(280A) Funding
21.63(280A) Annual report

DIVISION VIII
PROGRAM AND ADMINISTRATIVE SHARING INITIATIVE
21.64(280A) Purpose
21.65(280A) Definitions
21.66(280A) Eligibility requirements
21.67(280A) Timelines
21.68(280A) Evaluation and selection criteria
21.69(280A) Funding
21.70(280A) Annual report
21.71(280A) Combining merged areas—election

**CHAPTER 22
POSTSECONDARY ENROLLMENT
OPTIONS**

- 22.1(261C) Definitions
- 22.2(261C) Enrollment procedures
- 22.3(261C) Student eligibility
- 22.4(261C) Eligible postsecondary courses
- 22.5(261C) Request for payment time frames
- 22.6(261C) Tuition reimbursements and adjustments

**CHAPTER 23
ADULT EDUCATION**

- 23.1(260C) Planning process
- 23.2(260C) Final plan

**CHAPTERS 24 and 25
Reserved**

**TITLE IV
DRIVER AND SAFETY EDUCATION**

**CHAPTER 26
DRIVER EDUCATION**

- 26.1(256) Licensure and approval
- 26.2(256) Course standards
- 26.3(256) Time on driving simulators
- 26.4(256) Driving ranges
- 26.5(256) Dual controlled cars
- 26.6(256) Instruction permit
- 26.7(256) Special minor's license
- 26.8(256) Motorized bicycle rider education
- 26.9(256) Motorcycle rider education

**CHAPTERS 27 to 30
Reserved**

**TITLE V
NONTRADITIONAL STUDENTS**

**CHAPTER 31
COMPETENT PRIVATE INSTRUCTION
AND DUAL ENROLLMENT**

- 31.1(299) Purpose
- 31.2(299) Reports as to competent private instruction
- 31.3(299) Duties of licensed practitioners
- 31.4(299A) School district duties related to competent private instruction
- 31.5(299A) Dual enrollment
- 31.6(299) Open enrollment
- 31.7(299A) Baseline testing and annual assessment

- 31.8(299A) Reporting assessment results
- 31.9(299A) Special education students

**CHAPTER 32
HIGH SCHOOL EQUIVALENCY
DIPLOMA**

- 32.1(259A) Test
- 32.2(259A) By whom administered
- 32.3(259A) Minimum score
- 32.4(259A) Date of test
- 32.5(259A) Retest
- 32.6(259A) Application fee

**CHAPTER 33
EDUCATING THE HOMELESS**

- 33.1(256) Purpose
- 33.2(256) Definitions
- 33.3(256) Responsibilities of the board of directors
- 33.4(256) School records; student transfers
- 33.5(256) Immunization requirements
- 33.6(256) Waiver of fees and charges encouraged
- 33.7(256) Waiver of enrollment requirements encouraged; placement
- 33.8(256) Residency of homeless child or youth
- 33.9(256) Dispute resolution
- 33.10(256) Transportation of homeless children and youth
- 33.11(256) School services

**CHAPTERS 34 and 35
Reserved**

CHAPTER 12
GENERAL ACCREDITATION STANDARDS
(Applicable July 1, 1989)

[Prior to 9/7/88, see Public Instruction Department(670) Ch 4]

PREAMBLE

The following standards are the minimum requirements that must be met by an Iowa public school district to be accredited. A public school district that does not maintain accreditation shall be merged by the state board of education with one or more contiguous school districts as required by Iowa Code subsection 256.11(12). A nonpublic school must meet the standards if it wishes to be designated as accredited for operation in Iowa. The standards are intended to fulfill the state's responsibility for making available an appropriate educational opportunity for each child of school age in Iowa. They are designed to ensure that each child has access to educational programs essential to the needs and abilities of the child regardless of race, sex, handicapping condition, language, socioeconomic background, or geographic location. No public school district, or a nonpublic school desiring to be accredited, is required to meet the provisions of this chapter prior to July 1, 1989.

DIVISION I
GENERAL STANDARDS

281—12.1(256) General standards.

12.1(1) *Educational units governed by standards.* These standards govern the accreditation of all prekindergarten, if offered, or kindergarten through grade twelve school districts operated by public school corporations and the accreditation, if requested, of prekindergarten or kindergarten through grade twelve schools operated under nonpublic auspices. "School" means prekindergarten, if offered, and any organizational pattern of kindergarten through grade twelve of an elementary-secondary education program. Equal opportunity in programs shall be provided to all students regardless of race, national origin, sex, or disability. Each board shall take affirmative steps to integrate students in attendance centers and courses. In order to monitor progress, district, attendance centers, and course enrollment, data shall be collected on the basis of race, national origin, sex and disability, and reviewed and updated annually.

12.1(2) *School board.* Each school or school district shall be governed by an identifiable authority which shall exercise the functions necessary for the effective operation of the school and referred to in these rules as the "board."

12.1(3) *Application for accreditation.* The board of any school or school district that is not accredited on the effective date of these standards and which seeks accreditation shall file an application with the director, department of education, on or before the first day of January of the school year preceding the school year for which accreditation is sought.

12.1(4) *Accredited schools and school districts.* Each school or school district receiving accreditation under the provisions of these standards shall remain accredited except when by action of the state board of education it is removed from the list of accredited schools maintained by the department of education in accordance with Iowa Code subsections 256.11(11) and 256.11(12).

12.1(5) *When nonaccredited.* A school district shall be nonaccredited on the day after the date it is removed from the list of accredited schools by action of the state board of education. A nonpublic school shall be nonaccredited on the date established by the resolution of the state board, which shall be no later than the end of the school year in which the nonpublic school is declared to be nonaccredited.

12.1(6) Exemption request. A board may request from the director of the department of education exemption from one or more of the requirements of the educational program specified in Iowa Code subsection 256.11(5). The request shall meet all requirements of Iowa Code subsection 256.11(8) and shall be granted only if the director determines that it is part of a planned, innovative curriculum project meeting the educational needs and interests of pupils and is broadly consistent with the intent of the educational program as defined in Iowa Code subsection 256.11(5). The director shall require an annual renewal of the exemption; any renewal of the exemption shall be at the discretion of the director.

An exemption request may also be made under the guidelines specified in Iowa Code subsection 256.9(51). See information provided in rule 281—12.8(256).

12.1(7) Alternative provisions for accreditation. School districts may meet accreditation requirements through the provisions of Iowa Code sections 256.13, nonresident pupils; 273.7A, services to school districts; 279.20, superintendent—term; 280.15, joint employment and sharing; 282.7, attending in another corporation—payment; and 282.10, whole grade sharing. Non-public schools may meet accreditation requirements through the provisions of Iowa Code section 256.12.

DIVISION II
DEFINITIONS

281—12.2(256) Definitions. For purposes of these accreditation standards, the following definitions shall be used.

12.2(1) Minimum school calendar and day of instruction. Each board shall adopt a school calendar that identifies specific days for student instruction, staff development and in-service time, and time for teacher conferences. The length of the school calendar does not dictate the length of contract or employment days for individual instructional and noninstructional staff. The school calendar may be operated any time during the school year of July 1 to June 30 as defined by Iowa Code section 279.10. A minimum of 180 days of the school calendar, for school districts beginning no sooner than a day during the calendar week in which the first day of September falls, shall be used for student instruction. These days shall meet the definitions of “day of school” in subrule 12.2(2), “minimum school day” in subrule 12.2(3), and “day of attendance” in subrule 12.2(4). (Exception: A school or school district may, by board policy, excuse graduating seniors up to five days of instruction after district requirements for graduation have been met.) Of the remaining days in the school calendar, a minimum of 20 days, excluding vacation and holidays, shall be used as determined by the board for other educational purposes involving instructional and noninstructional staff.

12.2(2) Day of school. A day of school is a day during which the school or school district is in session and pupils are under the guidance and instruction of the instructional professional staff. School shall be considered in session during parent-teacher conferences as well as during activities such as field trips if pupils are engaged in school programs or activities under the guidance and direction of the instructional professional staff. All grade levels of the school or school district must be operated and available for attendance by all pupils. An exception is if either the elementary or secondary grades are closed provided that this time is made up at some other point during the school calendar so as to meet the minimum of 180 days of instruction for all grade levels 1 through 12. If a classroom or attendance center is closed for emergency health or safety reasons but the remainder of the school or school district is in operation, the day may be counted as a day of school.

12.2(3) Minimum school day. A school day shall consist of a minimum of five and one-half hours of instructional time for all grades one through twelve. The minimum hours shall be exclusive of the lunch period. Passing time between classes as well as time spent on parent-teacher conferences may be counted as part of the five and one-half hour requirement. The

school or school district may record a day of school with less than the minimum instructional hours if emergency health or safety factors require the late arrival or early dismissal of pupils on a specific day; or if the total hours of instructional time for all grades one through twelve in any five consecutive school days equals a minimum of twenty-seven and one-half hours, even though any one day of school is less than the minimum instructional hours because of a staff development opportunity provided for the instructional professional staff.

12.2(4) *Day of attendance.* A day of attendance shall be a day during which a pupil was present and under the guidance and instruction of the instructional professional staff. A pupil shall not be counted in attendance during school calendar days designated by the board for licensed/certificated staff in-service programs unless these are conducted outside the time required for a "minimum school day." (Note exceptions in subrules 12.2(2) and 12.2(3).)

12.2(5) *Enrolled pupil.* A pupil shall be considered enrolled after registering with the school or school district and taking part in the educational program.

12.2(6) *Kindergarten program.* A kindergarten program complying with the educational program description in subrule 12.5(2) shall be operated by a school district. A nonpublic school is not required to offer kindergarten in order to be accredited. The number of instructional days within the school calendar and the length of the school day for kindergarten shall be defined by the board.

DIVISION III ADMINISTRATION

281—12.3(256) Administration. The following standards shall apply to the administration of accredited schools and school districts.

12.3(1) *Board records.* Each board shall adopt by written policy a system for maintaining accurate records. The system shall provide for recording and maintaining the minutes of all board meetings, coding all receipts and expenditures, and recording and filing all reports required by the Iowa Code or requested by the director of the department of education. Financial records of school districts shall be maintained in a manner as to be easily audited according to accepted accounting procedures.

12.3(2) *Policy manual.* The board shall develop and maintain a policy manual which provides a codification of its policy actions with the adoption date, the review date, and any revision date of each. Policies shall be reviewed at least every three years to ensure relevance to current practices and compliance with the Iowa Code, administrative rules and decisions, and court decisions.

12.3(3) *Needs assessment, statement of philosophy, and long-range plans.* The board, in compliance with Iowa Code section 280.12 and as a standard for accreditation, shall adopt and implement a process for conducting an ongoing needs assessment for the school or school district. Information obtained from this process shall be used by the board, in conjunction with other data, to establish and update both long- and short-range plans which include specific goals for meeting the identified needs. The purpose of the assessment process is twofold: first, to assist the board in developing and evaluating a statement of philosophy for the school or school district; and second, to determine the areas of student performance, knowledge, and attitudes which are judged to be most crucial in meeting school or district goals. This process, for school districts, shall comply with Iowa Code section 280.18 requiring the adoption of goals to improve student achievement and performance. As part of its assessment the board shall develop a process for communicating with business, industry, labor, and higher education regarding their expectations for adequate student preparation.

The statement of philosophy shall describe the board's beliefs about topics which shall include, but need not be limited to, the nature of learning, the purpose of the school or school district, the scope of educational experiences that the school or school district should provide, the nature of its learners, and a description of a desirable learning atmosphere.

While there are various procedures or models that may be used in conducting a needs assessment, the following basic steps shall be included. School goals shall be identified and stated in terms of what learners should be able to perform as a result of their schooling. The board shall determine which of these goals represent learning that would help the majority of the students in each course assume responsibilities as citizens, parents, and wage earners. Such identified goals shall be called basic skills and should be given the highest priority. School staff, students, parents, and community members shall recommend courses to be offered above requirements established by subrules 12.5(1) to 12.5(5) and within the optional areas described in subrule 12.5(5), paragraphs "g," "h," and "i." Recommendations of this committee shall primarily reflect both the identified needs and resources of the school or school district. Assessment procedures, including those persons responsible for assessment, shall be identified for goals in the basic skills areas, and performance criteria shall be established and reviewed.

In identifying school goals, specific consideration shall be given to the five-year plan for the achievement of educational goals in Iowa developed by the state board of education as required by Iowa Code subsection 256.7(4).

As part of its needs assessment policy the board shall include provisions for keeping its various publics regularly informed of its policies, procedures, programs, and planning for the school or school district. This policy shall ensure involvement and consultation with students, parents, teachers, administrators, and representatives from the community in developing the various processes required by Iowa Code section 280.12.

12.3(4) *Personnel evaluation.* Each board shall adopt a performance evaluation process for school personnel. Personnel evaluation processes of school districts shall conform to Iowa Code sections 272.33, 279.14 and 279.23A.

12.3(5) *Instructional time audit.* Nullified by 1993 General Assembly in HJR 19, effective April 20, 1993.

12.3(6) *Student records.* Each board shall require its administrative staff to establish and maintain a system of pupil records. This system shall include for each pupil a permanent office record and a cumulative record.

The permanent office record shall serve as a historical record of official information concerning the pupil's education. At a minimum it should reflect evidence of attendance and educational progress, provide an official transcript, have all base data for use in planning to meet educational needs, and provide all data for official school reports. This record is to be permanently maintained and stored in a fire-resistant safe or vault.

The cumulative record shall provide a continuous and current record of significant information on progress and growth. It should reflect information such as courses taken, scholastic progress, school attendance, physical and health record, experiences, interests, aptitudes, attitudes, abilities, honors, extracurricular activities, part-time employment, and future plans. It is the "working record" used by the instructional professional staff in understanding the pupil. At the request of a receiving school or school district, a copy of the cumulative record shall be sent to officials of that school when a pupil transfers.

The board shall adopt a policy concerning the accessibility and confidentiality of pupil records that complies with the provisions of the federal Family Educational Rights and Privacy Act of 1974, as amended, and Iowa Code chapter 22.

12.3(7) *Standards for graduation.* Each board providing a program through grade twelve shall adopt a policy establishing the requirements students must meet for high school graduation. This policy shall make provision for early graduation and shall be consistent with these standards and the Iowa Code.

12.3(8) *Student responsibility and discipline.* The board shall adopt student responsibility and discipline policies. In developing or revising such policies, the board shall involve parents, students, instructional and noninstructional professional staff, and community members. Stu-

dent responsibility and discipline policies shall relate to the educational purposes of the school or school district. The policies shall include, but need not be limited to, attendance; use of tobacco and the use or possession of alcoholic beverages or any controlled substance; violent, destructive, and seriously disruptive behavior; suspension, expulsion, emergency removal, corporal punishment, and physical restraint; out-of-school behavior; participation in extracurricular activities; academic progress; and citizenship.

In developing and applying student responsibility and discipline policies, the board shall ensure due process rights for students and parents. In some instances this may require developing separate policies for students who have been identified as requiring special education programs and services.

The board shall also consider the potential of a disparate impact on students by virtue of race, sex, disability, or national origin.

The board shall publicize its support of these policies; its support of the staff in enforcing them; and the staff's accountability for implementing them.

12.3(9) Health services. The board shall adopt a policy for the implementation of a school health services program. The program shall be designed to help each student protect, improve, and maintain physical, emotional, and social well-being.

Areas to be considered in the development of a policy could include, but not necessarily be limited to: environmental health and safety; emergency health procedures and responsibilities; health promotion; communicable disease prevention and control; staffing for the school health program; administering of prescription medication; acute or chronic health problems; and health assessment and screening; and record keeping and program evaluation.

The program shall include the provision of special health services. The definitions and procedures found at 281 IAC 41.23(281) and 281—subrules 41.23(1) and 41.23(2) shall be used in implementing the program required by this subrule.

The special health services definition includes routine insertion health procedures, also called "intrusive nonemergency" health services. Special health services does not include routine procedures such as noninsertion first aid, defined as treatment to injured or sick persons before professional health care is available, and noninsertion medication administration. School employees, with the exception of licensed health professionals and individuals hired specifically for those purposes, may refuse to provide special health services. Qualified designated personnel, pursuant to rule 281—41.23(281), other than licensed health personnel, shall be presumed to agree to provide the special health service unless presenting to district personnel a signed written refusal to provide such service.

12.3(10) Audit of school funds. This standard applies only to public school districts. The results of the annual audit of all public school district funds conducted by the state auditor or a private auditing firm shall be made part of the official records of the board.

12.3(11) School system organizational structure. The board shall officially adopt an organizational structure for the school(s) under its jurisdiction. This action shall be recorded in its minutes.

12.3(12) Report on accredited nonpublic school instruction. Between September 1 and October 1 of each year the secretary of each public school district board shall request from each accredited nonpublic school located within its boundaries a report of private school instruction as required by Iowa Code section 299.3. Each accredited nonpublic school shall submit the required report in duplicate. The secretary of the public school board shall send one copy to the board secretary of the area education agency within which the public school district is located.

Within ten days of receipt of notice, each accredited nonpublic school shall send a report to the secretary of the public school district within which the accredited nonpublic school is located. This report shall conform to the requirements of Iowa Code section 299.3.

DIVISION IV
SCHOOL PERSONNEL

281—12.4(256) School personnel. License/certificate and endorsement standards required in this rule relate to licenses/certificates and endorsements issued by the state board of educational examiners. The following standards shall apply to personnel employed in accredited schools.

12.4(1) Instructional professional staff. Each person who holds a license/certificate endorsed for the service for which that person is employed shall be eligible for classification as a member of the instructional professional staff.

12.4(2) Noninstructional professional staff. A person who holds a statement of professional recognition, including but not limited to a physician, dentist, nurse, speech therapist, or a person in one of the other noninstructional professional areas designated by the state board of education, shall be eligible for classification as a member of the noninstructional professional staff.

12.4(3) Basis for approval of professional staff. Each member of the professional staff shall be classified as either instructional or noninstructional. An instructional professional staff member shall be regarded as approved when holding either an appropriate license/certificate with endorsement or endorsements, or a license/certificate with an endorsement statement, indicating the specific teaching assignments that may be given. A noninstructional professional staff member shall be regarded as approved when holding a statement of professional recognition for the specific type of noninstructional professional school service for which employed.

12.4(4) Required administrative personnel. Each board that operates both an elementary school and a secondary school shall employ as its executive officer and chief administrator a person who holds a license/certificate endorsed for service as a superintendent. The board of a school district may meet this requirement by contracting with its area education agency for "superintendency services" as provided by Iowa Code section 273.7A. The individual employed or contracted for as superintendent may serve as elementary principal in that school or school district provided that the superintendent holds the proper licensure/certification but cannot also serve as a high school principal in that school or school district. For purposes of this subrule, high school means a school which commences with either grade 9 or grade 10, as determined by the board of directors of the school district, or by the governing authority of the nonpublic school in the case of nonpublic schools. Boards of school districts may jointly employ a superintendent, provided such arrangements comply with the provisions of Iowa Code subsection 279.23(4).

12.4(5) Staffing policies—elementary schools. The board operating an elementary school shall develop and adopt staffing policies designed to attract, retain, and effectively utilize competent personnel. Each board operating an elementary school shall employ at least one elementary principal. This position may be combined with that of secondary principal or with a teaching assignment at the elementary or secondary level, provided the individual holds the proper licenses/certificates and endorsements.

When grades seven and eight are part of an organized and administered junior high school, the staffing policies adopted by the board for secondary schools shall apply. When grades seven and eight are part of an organized and administered middle school, the staffing policies adopted by the board for elementary schools shall apply.

12.4(6) Staffing policies—secondary schools. The board operating a secondary school shall develop and adopt staffing policies designed to attract, retain, and effectively utilize competent personnel. Each board operating a secondary school shall employ at least one secondary principal. This position may be combined with that of elementary principal or with a teach-

ing assignment at the elementary or secondary level, provided the individual holds the proper licenses/certificates and endorsements. This position cannot be combined with that of superintendent.

12.4(7) *Principal.* "Principal" means a licensed/certificated member of a school's instructional staff who serves as an instructional leader, coordinates the process and substance of educational and instructional programs, coordinates the budget of the school, provides formative evaluation for all practitioners and other persons in the school, recommends or has effective authority to appoint, assign, promote, or transfer personnel in a school building, implements the local school board's policy in a manner consistent with professional practice and ethics, and assists in the development and supervision of a school's student activities program.

12.4(8) *Teacher.* A teacher shall be defined as a member of the instructional professional staff who holds a license/certificate endorsed for the type of position in which employed. A teacher diagnoses, prescribes, evaluates, and directs student learnings in terms of the school's objectives, either singly or in concert with other professional staff members; shares responsibility with the total professional staff for developing educational procedures and student activities to be used in achieving the school's objectives; supervises educational aides who assist in serving students for whom the teacher is responsible; and evaluates or assesses student progress during and following instruction in terms of the objectives sought, and uses this information to develop further educational procedures.

12.4(9) *Educational aide.* An educational aide shall be defined as an employee or volunteer who, in the presence or absence of an instructional professional staff member but under the direction, supervision, and control of the instructional professional staff, supervises students on a monitorial or service basis; and works with students in a supportive role under conditions determined by the instructional professional staff responsible for the students, but not as a substitute for or a replacement of functions and duties of a teacher as established in subrule 12.4(8).

During the initial year of employment, an educational aide shall complete an in-service training program approved by the board as provided in subrule 12.7(1).

12.4(10) *Record of license/certificate or statement of professional recognition.* The board shall require each administrator, teacher, support service staff member, and noninstructional professional staff member on its staff to supply evidence that each holds a license/certificate or statement of professional recognition which is in force and valid for the type of position in which employed.

12.4(11) *Record required regarding teacher and administrative assignments.* The board shall require its superintendent or other designated administrator to maintain a file for all regularly employed members of the instructional professional staff, including substitute teachers. The file shall consist of complete official transcripts of the preparation of these staff members and their legal licenses/certificates or copies thereof showing that they are eligible for the position in which employed. The official shall also maintain on file a legal license/certificate or statement of professional recognition as defined in subrule 12.4(2) for each member of the noninstructional professional staff. These records shall be on file at the beginning of and throughout each school year and shall be updated annually to reflect all professional growth.

On December 1 of each year, the official shall verify to the department of education the licensure/certification and endorsement status of each member of the instructional and administrative staff. This report shall be on forms provided by the department of education and shall identify all persons holding conditional authorizations and their specific assignment(s) with the conditional authorization(s).

12.4(12) *Nurses.* Each board that employs a nurse shall require a current license to be filed with the superintendent or other designated administrator as specified in subrule 12.4(10).

12.4(13) Prekindergarten staff. Prekindergarten teachers shall hold a license/certificate valid for the prekindergarten level. The board shall employ personnel as necessary to provide effective supervision and instruction in the prekindergarten program.

12.4(14) Physical examination. Except as otherwise provided in 281—43.15(285), the local board shall require each employee to file with it certification of fitness to perform the tasks assigned which shall be in the form of a written report of a physical examination, including a check for tuberculosis, by a licensed physician and surgeon, osteopathic physician and surgeon, osteopath, or qualified doctor of chiropractic, licensed physician assistant, or advanced registered nurse practitioner. A report shall be filed at the beginning of service and at three-year intervals.

Each doctor of chiropractic licensed as of July 1, 1974, shall affirm on each certificate of physical examination that the affidavit required by Iowa Code section 151.8 is on file with the Iowa board of chiropractic examiners.

12.4(15) Support staff. The board shall develop and implement procedures for the use of educational support staff to augment classroom instruction and to meet individual student needs. These staff members may be employed by the board or by the area education agency.

DIVISION V
EDUCATION PROGRAM

281—12.5(256) Education program. The following education program standards shall be met by schools and school districts for accreditation with the start of the 1989-1990 school year.

12.5(1) Prekindergarten program. If a school offers a prekindergarten program, the program shall be designed to help children to work and play with others, to express themselves, to learn to use and manage their bodies, and to extend their interests and understanding of the world about them. The prekindergarten program shall relate the role of the family to the child's developing sense of self and perception of others. Planning and carrying out prekindergarten activities designed to encourage cooperative efforts between home and school shall focus on community resources. A prekindergarten teacher shall hold a license/certificate licensing/certifying that the holder is qualified to teach in prekindergarten. A nonpublic school which offers only a prekindergarten may, but is not required to, seek and obtain accreditation.

12.5(2) Kindergarten program. The kindergarten program shall include experiences designed to develop healthy emotional and social habits and growth in the language arts and communication skills, as well as a capacity for the completion of individual tasks, and protect and increase physical well-being with attention given to experiences relating to the development of life skills and human growth and development. A kindergarten teacher shall be licensed/certificated to teach in kindergarten. An accredited nonpublic school must meet the requirements of this subsection only if the nonpublic school offers a kindergarten program.

12.5(3) Elementary program, grades 1-6. The following areas shall be taught in grades one through six: English-language arts, social studies, mathematics, science, health, human growth and development, physical education, traffic safety, music, and visual art.

In implementing the elementary program standards, the following general curriculum definitions shall be used.

a. English-language arts. English-language arts instruction shall include the following communication processes: speaking; listening; reading; writing; viewing; and visual expression and nonverbal communication. Instruction shall incorporate language learning and creative, logical, and critical thinking. The following shall be taught: oral and written composition; communication processes and skills, including handwriting and spelling; literature; creative dramatics; and reading.

b. Social studies. Social studies instruction shall include citizenship education, history, and social sciences. Democratic beliefs and values, problem-solving skills, and social and political

participation skills shall be incorporated. Instruction shall encompass geography, history of the United States and Iowa, and cultures of other peoples and nations. American citizenship, including the study of national, state, and local government; and the awareness of the physical, social, emotional and mental self shall be infused in the instructional program.

c. Mathematics. Mathematics instruction shall include number sense and numeration; concepts and computational skills with whole numbers, fractions, mixed numbers and decimals; estimation and mental arithmetic; geometry; measurement; statistics and probability; and patterns and relationships. This content shall be taught through an emphasis on mathematical problem solving, reasoning, and applications; language and symbolism to communicate mathematical ideas; and connections among mathematical topics and between mathematics and other disciplines. Calculators and computers shall be used in concept development and problem solving.

d. Science. Science instruction shall include life, earth, and physical science and shall incorporate hands-on process skills; scientific knowledge; application of the skills and knowledge to students and society; conservation of natural resources; and environmental awareness.

e. Health. Health instruction shall include personal health; food and nutrition; environmental health; safety and survival skills; consumer health; family life; substance abuse and nonuse, encompassing the effects of alcohol, tobacco, drugs, and poisons on the human body; human sexuality, self-esteem, stress management, and interpersonal relationships; emotional and social health; health resources; and prevention and control of disease, and the characteristics of communicable diseases, including acquired immune deficiency syndrome.

f. Physical education. Physical education instruction shall include movement experiences and body mechanics; fitness activities; rhythmic activities; stunts and tumbling; simple games and relays; sports skills and activities; and water safety.

g. Traffic safety. Traffic safety instruction shall include pedestrian safety; bicycle safety; auto passenger safety; school bus passenger safety; seat belt use; substance education; and the application of legal responsibility and risk management to these concepts.

h. Music. Music instruction shall include skills, knowledge, and attitudes and shall include singing and playing music; listening to and using music; reading and writing music; recognizing the value of the world's musical heritage; respecting individual musical aspirations and values; and preparing for consuming, performing, or composing.

i. Visual art. Visual art instruction shall include perceiving, comprehending, and evaluating the visual world; viewing and understanding the visual arts; developing and communicating imaginative and inventive ideas; and making art.

12.5(4) *Junior high program, grades 7 and 8.* The following shall be taught in grades 7 and 8: English-language arts, social studies, mathematics, science, health, human growth and development, physical education, music, visual art, family and consumer education, career education, and technology education. Instruction in the following areas shall include the contributions and perspectives of persons with disabilities, both men and women, and persons from diverse racial and ethnic groups, and shall be designed to eliminate career and employment stereotypes.

In implementing the junior high program standards, the following general curriculum definitions shall be used.

a. English-language arts. Same definition as in subrule 12.5(3) "a" with the exclusion of handwriting.

b. Social studies. Social studies instruction shall include citizenship education, history and social sciences. Democratic beliefs and values, problem-solving skills, and social and political participation skills shall be incorporated. Instruction shall encompass history, economics, geography, government including American citizenship, behavioral sciences, and the cultures of other peoples and nations. Strategies for continued development of positive self-perceptions shall be infused.

c. Mathematics. Mathematics instruction shall include number and number relationships including ratio, proportion, and percent; number systems and number theory; estimation and computation; geometry; measurement; statistics and probability; and algebraic concepts of variables, patterns, and functions. This content shall be taught through an emphasis on mathematical problem solving, reasoning, and applications; language and symbolism to communicate mathematical ideas; and connections among mathematical topics and between mathematics and other disciplines. Calculators and computers shall be used in concept development and problem solving.

d. Science. Same definition as in subrule 12.5(3)“d.”

e. Health. Health instruction shall include personal health; food and nutrition; environmental health; safety and survival skills; consumer health; family life; substance abuse and nonuse, encompassing the effects of alcohol, tobacco, drugs, and poisons on the human body; human sexuality, self-esteem, stress management, and interpersonal relationships; emotional and social health; health resources; and prevention and control of disease and the characteristics of communicable diseases, including sexually transmitted diseases and acquired immune deficiency syndrome.

f. Physical education. Physical education shall include the physical fitness activities that increase cardiovascular endurance, muscular strength, and flexibility; sports and games; tumbling and gymnastics; rhythms and dance; water safety; leisure and lifetime activities.

g. Music. Same definition as in subrule 12.5(3)“h” with the addition of using music as an avocation or vocation.

h. Visual art. Same definition as in subrule 12.5(3)“i” with the addition of using visual arts as an avocation or vocation.

i. Family and consumer education. Family and consumer education instruction shall include the development of positive self-concept, understanding personal growth and development and relationships with peers and family members in the home, school and community, including men, women, minorities and persons with disabilities. Subject matter emphasizes the home and family, including parenting, child development, textiles and clothing, consumer and resource management, foods and nutrition, housing, and family and individual health. This subrule shall not apply to nonpublic schools.

j. Career education. Career education instruction shall include exploration of employment opportunities, experiences in career decision making, and experiences to help students integrate work values and work skills into their lives. This subrule shall not apply to nonpublic schools. However, nonpublic schools shall comply with subrule 12.5(7).

k. Technology education. Technology education instruction shall include awareness of technology and its impact on society and the environment; furthering students' career development by contributing to their scientific principles, technical information and skills to solve problems related to an advanced technological society; and orienting students to technologies which impact occupations in all six of the required service areas. The purpose of this instruction is to help students become technologically literate and become equipped with the necessary skills to cope with, live in, work in, and contribute to a highly technological society. This subrule shall not apply to nonpublic schools.

12.5(5) *High school program, grades 9-12.* In grades 9 through 12 a unit is a course or equivalent related components or partial units taught throughout the academic year as defined in subrule 12.5(18). The following shall be offered and taught as the minimum program: English-language arts, six units; social studies, five units; mathematics, six units as specified in subrule 12.5(5)“c”; science, five units; health, one unit; physical education, one unit; fine arts, three units; foreign language, four units; and vocational education, five units as specified in subrule 12.5(5)“i.”

In implementing the high school program standards, the following curriculum standards shall be used.

a. English-language arts (six units). English-language arts instruction shall include the following communication processes: speaking; listening; reading; writing; viewing; and visual expression and nonverbal communication. Instruction shall incorporate language learning and creative, logical, and critical thinking. The program shall encompass communication processes and skills; written composition; speech; debate; American, English, and world literature; creative dramatics; and journalism.

b. Social studies (five units). Social studies instruction shall include citizenship education, history, and the social sciences. Instruction shall encompass the history of the United States and the history and cultures of other peoples and nations including the analysis of persons, events, issues, and historical evidence reflecting time, change, and cause and effect; an overview of American government through the study of the United States Constitution, the federal system of government, and the structure and relationship between the national, state, county, and local governments; and voter education including instruction in statutes and procedures, voter registration requirements, the use of paper ballots and voting machines in the election process, and the method of acquiring and casting an absentee ballot. Economics shall include comparative and consumer studies in relation to the market and command economic systems. Geography shall include the earth's physical and cultural features, their spatial arrangement and interrelationships, and the forces that affect them. Sociology, psychology, and anthropology shall include the scientific study of the individual and group behavior(s) reflecting the impact of these behaviors on persons, groups, society, and the major institutions in a society. Democratic beliefs and values, problem-solving skills, and social and political skills shall be incorporated. All students in grades nine through twelve must, as a condition of graduation, complete instruction in American history and the governments of Iowa and the United States.

c. Mathematics (six units). Mathematics instruction shall include:

(1) Four sequential units which are preparatory to postsecondary educational programs. These units shall include strands in algebra, geometry, trigonometry, statistics, probability, and discrete mathematics. Mathematical concepts, operations, and applications shall be included for each of these strands. These strands shall be taught through an emphasis on mathematical problem solving, reasoning, and structure; language and symbolism to communicate mathematical ideas; and connections among mathematical topics and between mathematics and other disciplines. Calculators and computers shall be used in concept development and problem solving.

(2) Two additional units shall be taught. These additional units may include mathematical content as identified in, but not limited to, paragraphs 12.5(3)“c,” 12.5(4)“c,” and 12.5(5)“c”(1). These units are to accommodate the locally identified needs of the students in the school or school district. This content shall be taught through an emphasis on mathematical problem solving, reasoning, and structure; language and symbolism to communicate mathematical ideas; and connections among mathematical topics and between mathematics and other disciplines. Calculators and computers shall be used in concept development and problem solving.

d. Science (five units). Science instruction shall include biological, earth, and physical science, including physics and chemistry. Full units of chemistry and physics shall be taught but may be offered in alternate years. All science instruction shall incorporate hands-on process skills; scientific knowledge; the application of the skills and knowledge to students and society; conservation of natural resources; and environmental awareness.

e. Health (one unit). Health instruction shall include personal health; food and nutrition; environmental health; safety and survival skills; consumer health; family life; human growth and development; substance abuse and nonuse; emotional and social health; health resources; and prevention and control of disease, including sexually transmitted diseases and acquired immune deficiency syndrome, current crucial health issues, human sexuality, self-esteem, stress management, and interpersonal relationships.

f. Physical education (one unit). Physical education shall include the physical fitness activities that increase cardiovascular endurance, muscular strength and flexibility; sports and games; tumbling and gymnastics; rhythms and dance; water safety; leisure and lifetime activities.

All physically able students shall be required to participate in the program for a minimum of one-eighth unit during each semester they are enrolled except as otherwise provided in this paragraph. A twelfth-grade student may be excused from this requirement by the principal of the school in which the student is enrolled under one of the following circumstances:

(1) The student is enrolled in a cooperative, work-study, or other educational program authorized by the school which requires the student's absence from the school premises during the school day.

(2) The student is enrolled in academic courses not otherwise available.

(3) An organized and supervised athletic program which requires at least as much time of participation per week as one-eighth unit of physical education.

Students in grades nine through eleven may be excused from the physical education requirement in order to enroll in academic courses not otherwise available to the student if the board of directors of the school district in which the school is located, or the authorities in charge of the school, if the school is a nonpublic school, determine that students from the school may be permitted to be excused from the physical education requirement.

A student may be excused by the principal of the school in which the student is enrolled, in consultation with the student's counselor, for up to one semester, trimester, or the equivalent of a semester or trimester, per year if the parent or guardian of the student requests in writing that the student be excused from the physical education requirement. The student seeking to be excused from the physical education requirement must, at some time during the period for which the excuse is sought, be a participant in an organized and supervised athletic program which requires at least as much time of participation per week as one-eighth unit of physical education.

The student's parent or guardian must request the excuse in writing. The principal shall inform the superintendent that the student has been excused.

g. Fine arts (three units). Fine arts instruction shall include at least two of the following:

(1) Dance. Dance instruction shall encompass developing basic movement skills; elementary movement concepts; study of dance forms and dance heritage; participating in dance; and evaluating dance as a creative art; and using dance as an avocation or vocation.

(2) Music. Music instruction shall include skills, knowledge, and attitudes and the singing and playing of music; listening to and using music; reading and writing music; recognizing the value of the world's musical heritage; respecting individual musical aspirations and values; preparing for consuming, performing, or composing; and using music as an avocation or vocation.

(3) Theatre. Theatre instruction shall encompass developing the internal and external resources used in the theatre process; creating theatre through artistic collaboration; relating theatre to its social context; forming aesthetic judgments; and using theatre as an avocation or vocation.

(4) Visual art. Visual art instruction shall include developing concepts and values about natural and created environments; critiquing works of art; evaluating relationships between art and societies; analyzing, abstracting, and synthesizing visual forms to express ideas; making art; and using visual art as an avocation or vocation.

h. Foreign language (four units). The foreign language program shall be a four-unit sequence of uninterrupted study in at least one language. Foreign language instruction shall include listening comprehension appropriate to the level of instruction; rateable oral proficiency; reading

comprehension appropriate to the level of instruction; writing proficiency appropriate to the level of instruction and cultural awareness.

All high schools shall offer and teach the first two units of the sequence. The third and fourth units must be offered. However, the department of education may, on an annual basis, waive the third and fourth unit requirements upon the request of the board. The board must document that a licensed/certificated teacher was employed and assigned a schedule that would have allowed students to enroll, that the class was properly scheduled, that students were aware of the course offerings, and that no students enrolled.

i. Vocational education—school districts (three units each in at least four of the six service areas). A minimum of three sequential units of which one may be a core unit, shall be taught in four of the following six service areas: agricultural education, business and office education, health occupations education, home economics education, industrial education, and marketing education. The instruction shall be competency-based; shall provide a base of knowledge which will prepare students for entry level employment, additional on-the-job training, and postsecondary education within their chosen field; shall be articulated with postsecondary programs of study, including apprenticeship programs; shall reinforce basic academic skills; shall include the contributions and perspectives of persons with disabilities, both men and women, and persons from diverse racial and ethnic groups. Vocational core courses may be used in more than one vocational service area. Multioccupations may be used to complete a sequence in more than one vocational service area; however, a core course(s) and multioccupations cannot be used in the same sequence. If a district elects to use multioccupations to meet the requirements in more than one service area, documentation must be provided to indicate that a sufficient variety of quality training stations be available to allow students to develop occupational competencies. A district may apply for a waiver if an innovative plan for meeting the instructional requirement for the standard is submitted to and approved by the director of the department of education.

The instructional programs also shall comply with the provisions of Iowa Code chapter 258 relating to vocational education. Advisory committee/councils designed to assist vocational education planning and evaluation shall be composed of public members with emphasis on persons representing business, agriculture, industry, and labor. The membership of local advisory committees/councils will fairly represent each gender and minority residing in the school district. The accreditation status of a school district failing to comply with the provisions of this subrule shall be governed by subrule 281—46.7(10), paragraph “g.”

(1) A service area is the broad category of instruction in the following occupational cluster areas (definitions are those used in these rules):

(2) “Agricultural education programs” prepare individuals for employment in agriculture-related occupations. Such programs encompass the study of applied sciences and business management principles, as they relate to agriculture. Agricultural education focuses on, but is not limited to, study in horticulture, forestry, conservation, natural resources, agricultural products and processing, production of food and fiber, aquaculture and other agricultural products, mechanics, sales and service, economics marketing, and leadership development.

(3) “Business and office education programs” prepare individuals for employment in varied occupations involving such activities as planning, organizing, directing, and controlling all business office systems and procedures. Instruction offered includes such activities as preparing, transcribing, systematizing, preserving communications; analyzing financial records; receiving and disbursing money; gathering, processing and distributing information; and performing other business and office duties.

(4) “Health occupations education programs” prepare individuals for employment in a variety of occupations concerned with providing care in the areas of wellness, prevention of disease, diagnosis, treatment, and rehabilitation. Instruction offered encompasses varied activities

in such areas as dental science, medical science, diagnostic services, treatment therapy, patient care areas, rehabilitation services, record keeping, emergency care, and health education. Many occupations in this category require licensing or credentialing to practice, or to use a specific title.

(5) "Home economics education programs" encompass two categories of instructional programs:

1. "Consumer and family science" programs may be taught to prepare individuals for a multiple role of homemaker and wage earner and may include such content areas as food and nutrition; consumer education; family living and parenthood; child development and guidance; family and individual health; housing and home management; and clothing and textiles.

2. "Home economics occupations programs" prepare individuals for paid employment in such home economics-related occupations as child care aide/assistant, food production management and services, and homemaker/home health aide.

(6) "Industrial education programs" encompass two categories of instructional programs—industrial technology and trade and industrial. Industrial technology means an applied discipline designed to promote technological literacy which provides knowledge and understanding of the impact of technology including its organizations, techniques, tools, and skills to solve practical problems and extend human capabilities in areas such as construction, manufacturing, communication, transportation, power and energy. Trade and industrial programs prepare individuals for employment in such areas as protective services, construction trades, mechanics and repairers, precision production, transportation, and graphic communications. Instruction includes regular systematic classroom activities, followed by experiential learning with the most important processes, tools, machines, management ideas, and impacts of technology.

(7) "Marketing education programs" prepare individuals for marketing occupations, including merchandising and management—those activities which make products and services readily available to consumers and business. Instruction stresses the concept that marketing is the bridge between production (including the creation of services and ideas) and consumption. These activities are performed by retailers, wholesalers, and businesses providing services in for-profit and not-for-profit business firms.

(8) "Sequential unit" applies to an integrated offering, directly related to the educational and occupational skills preparation of individuals for jobs and preparation for postsecondary education. Sequential units provide a logical framework for the instruction offered in a related occupational area and do not require prerequisites for enrollment. A unit is defined in subrule 12.5(18).

(9) "Competency" is a learned student performance statement which can be accurately repeated and measured. Instruction is based on incumbent worker-validated statements of learner results (competencies) which clearly describe what skills the students will be able to demonstrate as a result of the instruction. Competencies function as the basis for building the instructional program to be offered. Teacher evaluation of students, based upon their ability to perform the competencies, is an integral part of a competency-based system.

(10) "Minimum competency lists" contain competencies validated by statewide technical committees, composed of representatives from appropriate businesses, industries, agriculture, and organized labor. These lists contain essential competencies which lead to entry level employment and are not intended to be the only competencies learned. Districts will choose one set of competencies per service area upon which to build their program or follow the process detailed in subrule 281—46.7(2) to develop local competencies.

(11) "Clinical experience" involves direct instructor supervision in the actual workplace, so that the learner has the opportunity to apply theory and to perfect skills taught in the classroom and laboratory.

“Field training” is an applied learning experience in a nonclassroom environment under the supervision of an instructor.

“Lab training” is experimentation, practice or simulation by students under the supervision of an instructor.

“On-the-job training” is a cooperative work experience planned and supervised by a teacher-coordinator and the supervisor in the employment setting.

(12) “Coring” is an instructional design whereby competencies common to two or more different vocational service areas are taught as one course offering. Courses shall be no longer than one unit of instruction. Course(s) may be placed wherever appropriate within the program offered. This offering may be acceptable as a unit or partial unit in more than one vocational program to meet the standard.

(13) “Articulation” is the process of mutually agreeing upon competencies and performance levels transferable between institutions and programs for advanced placement or credit in a vocational program. An articulation agreement is the written document which explains the decisions agreed upon and the process used by the institution to grant advanced placement or credit.

(14) “Multioccupational courses” combine on-the-job training in any of the occupational areas with the related classroom instruction. The instructor provides the related classroom instruction and coordinates the training with the employer at the work site. A multioccupational course may only be used to complete a sequence in more than one vocational service area if competencies from the appropriate set of minimum competencies are a part of the related instruction.

j. Vocational education/nonpublic schools (five units). A nonpublic school which provides an educational program that includes grades 9 through 12 shall offer and teach five units of occupational education subjects, which may include, but are not limited to, programs, services, and activities which prepare students for employment in business or office occupations, trade and industrial occupations, consumer and family sciences or home economics occupations, agricultural occupations, marketing occupations, and health occupations. By July 1, 1993, instruction shall be competency-based, articulated with postsecondary programs of study, and may include field, laboratory, or on-the-job training.

12.5(6) *Physical education and health courses exemption.* A pupil shall not be required to enroll in either physical education or health courses if the pupil’s parent or guardian files a written statement with the school principal that the course conflicts with the pupil’s religious beliefs.

12.5(7) *Career education.* The board shall provide a comprehensive career education program. Curricular and cocurricular teaching and learning experiences from the prekindergarten level through grade 12 shall be provided for all students. The career education program shall be infused into the total education program. The program shall include, but need not be limited to, awareness of self in relation to others and the needs of society; exploration of employment opportunities; experiences in personal decision making; and experiences to help students integrate work values and work skills into their lives. In the implementation of this standard, the board shall comply with Iowa Code section 280.9.

12.5(8) *Board’s responsibility for ensuring multicultural, nonsexist approaches to educational programs.* The board shall establish a policy to ensure the school is free from discriminatory practices in its educational programs. In developing or revising this policy, parents, students, instructional and noninstructional staff, and community members shall be involved. In addition, each board shall adopt a written plan, to be evaluated and updated at least every five years, for achieving and maintaining a multicultural, nonsexist educational program. A copy of the plan shall be on file in the administrative office of the school. The plan shall include:

a. Multicultural approaches to the educational program. These shall be defined as processes which foster knowledge of, and respect and appreciation for, the historical and contemporary contributions of diverse cultural groups to society. Special emphasis shall be placed on Asian

Americans, Black Americans, Hispanic Americans, American Indians, and the disabled. The program shall provide equal opportunity for all participants regardless of race, color, marital status, national origin, religion, or disability.

b. Nonsexist approaches to the educational program. These shall be defined as processes which foster knowledge of, and respect and appreciation for, the historical and contemporary contributions of men and women to society. The program shall reflect the wide variety of roles open to both men and women and shall provide equal opportunity to both sexes.

The plan shall also include specific goals and objectives, with implementation timelines for each component of the educational program; specific provisions for the infusion of multicultural, nonsexist concepts into each area of the curriculum developed under the provisions of subrule 12.5(16); a description of the in-service activities planned for all staff members on multicultural, nonsexist education; and evidence of systematic input by men and women, minority groups, and the disabled in developing and implementing the plan. In schools where no minority students are enrolled, minority group resource persons shall be utilized at least annually. A description of a periodic, ongoing system to monitor and evaluate the plan shall also be included.

12.5(9) *Special education.* The board of each school district shall provide special education programs and services for its resident children which comply with rules of the state board of education implementing Iowa Code chapters 256, 273, 280, and 281.

12.5(10) *Technology in the curriculum.* The board shall adopt a plan for the efficient and effective use of technology in the instructional program. The plan shall provide for the understanding and use of current technology by staff and students and shall include a procedure to review the district's utilization of technology as a teaching and learning tool.

12.5(11) *Global education.* The board shall adopt a plan which incorporates global perspectives into all areas and levels of the educational program so that students have the opportunity to acquire a realistic perspective on world issues, problems, and prospects for an awareness of the relationship between an individual's self-interest and the concerns of people elsewhere in the world. The plan shall include procedures for a review of its effectiveness.

12.5(12) *Provisions for gifted and talented students.* The board shall have a program to meet the needs of gifted and talented students. The program shall include valid and systematic procedures, employing multiple criteria, for identifying gifted and talented students including ethnic and language diverse students if such students are enrolled; provisions for curricular programming to meet the needs of identified gifted and talented students; support services, including materials and staff, to ensure that a qualitatively differentiated program is provided; and a procedure for annual review and evaluation for the purpose of program improvement.

12.5(13) *Provisions for at-risk students.* The board shall have a plan to identify and provide special assistance to students who have difficulty mastering the language, academic, cultural, and social skills necessary to reach the educational levels of which they are capable. The plan shall accommodate students whose aspirations and achievement may be negatively affected by stereotypes linked to race, national origin, language background, gender, income, family status, and disability.

The plan shall include strategies for identifying at-risk students. These objectives shall be translated into performance objectives for all school personnel. The plan shall also include provisions for in-service training for school personnel; strategies and activities for involving and working with parents; provisions for monitoring the behavioral, social, and academic improvement of at-risk students; provisions for appropriate counseling services; strategies for coordinating school programs and community-based support services; and maintenance of integrated educational environments in compliance with federal and state nondiscrimination legislation.

12.5(14) *Educational program defined.* The educational program is the entire offering of the school, including out-of-class activities and the sequence of subjects and activities. It is also referred to as the program of studies and activities.

12.5(15) Curriculum defined. Curriculum is all pupil experiences that take place under the guidance of the school. It describes both the school experiences of an individual pupil and the arrangement of a cluster of courses to be taken by groups of pupils having a common objective.

12.5(16) Curriculum development, review, and refinement. The board shall adopt a policy outlining its procedures for developing, implementing, and evaluating its total curriculum. Each curriculum area shall have goals; suggested instructional activities, materials, and content; and expected student outcomes for each level of instruction. The policy shall identify valid, bias-free student assessment procedures and the process for monitoring student progress.

This policy shall include procedures and timelines for reviewing each instructional program, with attention given to interdisciplinary teaching of higher order thinking skills, learning skills, and communication skills.

12.5(17) Educational program form and content. The educational program, as adopted by the board, shall set forth the administrative measures and the sequence of learning situations which provide pupils with well-articulated, developmental learning experiences from the date of school entrance until high school graduation.

12.5(18) Unit. A unit is a course which meets one of the following criteria: It is taught for at least 200 minutes per week for 36 weeks; it is taught for the equivalent of 120 hours of instruction; or it is an equated requirement as a part of an innovative program filed as prescribed in subrule 12.1(6). A fractional unit shall be calculated in a manner consistent with this standard. Multiple section courses taught at the same time in a single classroom situation by one teacher do not meet this unit definition for the assignment of a unit of credit with the exception that the third and fourth years of a foreign language may be taught at the same time by one teacher in a single classroom situation each yielding a unit of credit.

12.5(19) Credit. A student shall receive a credit or a partial credit upon successful completion of a course which meets one of the criteria in subrule 12.5(18). The board may award credit on a performance basis through the administration of an examination, provided the examination covers the content ordinarily included in the regular course.

12.5(20) Subject offering. A subject shall be regarded as offered when the teacher of the subject has met the licensure and endorsement standards of the state board of educational examiners for that subject; instructional materials and facilities for that subject have been provided; and pupils have been informed, based on their aptitudes, interests, and abilities, about possible value of the subject.

A subject shall be regarded as taught only when pupils are instructed in it in accordance with all applicable standards outlined herein. Subjects which the law requires schools to offer and teach shall be made available during the school day as defined in subrules 12.2(2), 12.2(3), and 12.2(4).

12.5(21) Guidance program. Each board operating a prekindergarten through grade 12 or kindergarten through grade 12 program shall provide an articulated sequential elementary-secondary guidance program to assist students with their personal, educational, and career development. Boards operating less than a full elementary-secondary program shall provide a sequential guidance program covering all grade levels operated. The program shall involve not only counselors but also instructional and noninstructional staff, students, parents, and community members. Facilities offering both visual and auditory privacy for counseling shall be provided. Properly licensed/certificated staff shall be employed at all program levels.

12.5(22) School media center and required staff. The board shall establish and operate a media services program to support the total curriculum. Each attendance center shall have a media center except that attendance centers sharing a physical facility could have a single media center. The board shall adopt a policy and procedure for selection, replacement, gift acceptance, weeding, and reconsideration of school media center and text materials. The collection shall foster a nonsexist, multicultural approach for curriculum studies and individual interests. The budget for each media center shall include funds for replacing and updating materials.

Each media center shall be supervised by a licensed/certified media specialist who works with students, teachers, and administrators. A full range of information sources, associated equipment, and services from the media center staff shall be available to students and the faculty. Each media center shall be accessible to students throughout the school day. The school or school district shall develop and implement a curriculum guide covering all grade levels operated for instruction and reinforcement of information search and media skills integrated with classroom instruction.

DIVISION VI
ACTIVITY PROGRAM

281—12.6(256) Activity program. The following standards shall apply to the activity program of accredited schools and school districts.

12.6(1) General guidelines. Each board shall sponsor a pupil activity program sufficiently broad and balanced to offer opportunities for all pupils to participate. The program shall be supervised by qualified professional staff and shall be designed to meet the needs and interests and challenge the abilities of all pupils consistent with their individual stages of development; contribute to the physical, mental, athletic, civic, social, moral, and emotional growth of all pupils; offer opportunities for both individual and group activities; be integrated with the instructional program; and provide balance so a limited number of activities will not be perpetuated at the expense of others.

12.6(2) Supervised intramural sports. If the board sponsors a voluntary program of supervised intramural sports for pupils in grades seven through twelve, qualified personnel and adequate facilities, equipment, and supplies shall be provided. Middle school grades below grade seven may also participate.

DIVISION VII
STAFF DEVELOPMENT

281—12.7(256) Staff development. The following standards shall apply to staff development for accredited schools and school districts.

12.7(1) Staff development program. The board shall have a plan for staff development. The plan shall provide for the professional development needs of the instructional professional staff, the noninstructional professional staff, the support staff, and educational aides. The plan shall include general goals for a three-year period and specific objectives and activities for the current school year.

12.7(2) Budget for staff development. The board shall annually budget specified funds to implement the plan required in subrule 12.7(1).

DIVISION VIII
EXEMPTION PROCESS

281—12.8(256) Standards exemption process. Accredited schools engaged in comprehensive school transformation efforts and seeking approval for an exemption from the educational standards shall submit a plan on or before January 1 preceding the beginning of the school year for which the exemption is sought. The exemption request may be approved for a time period not to exceed three years. Annual progress reports shall be made to the department of education for the period of time covered by the approved exemption request. An extension of the exemption beyond the three-year period may be approved by the department of education based upon the demonstrated success of the program. The department shall notify the school of the approval or denial of the exemption request not later than March 1.

12.8(1) Program plan. At a minimum, the program plan shall include:

- a. A description of the school's transformation plan including, but not limited to, new structures, methodologies, and creative approaches designed to help students achieve at higher levels.
- b. Identification of the standard or standards from which the exemption is being sought, including a statement of the reasons for requesting the exemption from the standard or standards.
- c. A rationale which includes educational research and best practice evidence that supports the request for the exemption.
- d. A statement of the goals and objectives for the program plan.
- e. Discussion of the focus on the improvement of student achievement and the attainment of student achievement goals under Iowa Code sections 280.12 and 280.18.
- f. Identification of assessment methods to be used in determining the success of the program and the impact on student achievement.
- g. Identification of a method for periodic demonstration that student achievement will not be lessened by the granting of the exemption.
- h. Description of the relationship between the district's Phase III plan and the comprehensive school transformation plan.
- i. Discussion of the administration and implementation of the plan, including the use of personnel, facilities, time, techniques, and activities.
- j. Plans for periodic reports to the department of education and the community.

12.8(2) Review criteria. The department of education will utilize the following criteria in the review and approval of all requests for exemptions from the educational standards received pursuant to subrule 12.1(8).

- a. The plan includes evidence of shared direction based on needs of all students as follows:
 - (1) Is developed collaboratively with staff and community.
 - (2) Is meaningful to the school as an organization and to the employees of the school.
 - (3) Is based on information about students' needs as determined by local and regional demographics of socioeconomic and economic conditions, employment opportunities, and family circumstances and how students learn.
 - (4) Illustrates that expectations for students are expressed in clear and meaningful ways.
- b. The plan illustrates that the school gathers evidence of success including, but not limited to, the following:
 - (1) Specific performance measures or standards are identified for graduation and for at least one interval at the elementary level and at least one interval at the middle school level and are appropriately assessed utilizing multiple assessment measures.
 - (2) The student achievement data is collected, analyzed and reported internally.
 - (3) Evidence of success or the results are reported both internally to staff and externally to parents and members of the community to reinforce or modify direction.
- c. The plan includes evidence that the school invests in its staff by providing time and support for planning, staff development, and analysis of the effectiveness of the teaching and learning processes.
- d. The plan reflects change that is substantive and comprehensive, emerges from the school site, is designed to make the system relevant, is an integral part of efforts at meeting needs or goals, is consistent with emerging philosophies on restructuring and transformation, and focuses on improvement of student achievement and the attainment of student achievement goals under Iowa Code sections 280.12 and 280.18.

These rules are intended to implement Iowa Code sections 256.11 and 280.23.

[Filed 3/4/88, Notice 7/15/87—published 3/23/88, effective 4/27/88*]

[Filed 8/19/88, Notice 6/29/88—published 9/7/88, effective 10/12/88]

[Filed emergency 7/7/89—published 7/26/89, effective 7/7/89]

[Filed 10/13/89, Notice 7/26/89—published 11/1/89, effective 12/6/89]
[Filed 9/13/91, Notice 2/6/91—published 10/2/91, effective 11/6/91]
[Filed 1/15/93, Notice 9/16/92—published 2/3/93, effective 3/10/93]
[Filed 2/11/94, Notice 10/27/93—published 3/2/94, effective 4/6/94]



441—7.5(217) The right to appeal. Any person or group of persons may file an appeal with the department concerning any issue. The department shall determine whether a hearing shall be granted.

7.5(1) When a hearing is granted. A hearing shall be granted to any appellant when the right to a hearing is granted by state or federal law or Constitution, except as limited in subrules 7.5(2) and 7.5(4).

7.5(2) When a hearing is not granted. A hearing shall not be granted when:

a. One of the following issues is appealed:

(1) Services are changed from one plan year to the next in the social service block grant preexpenditure report and as a result the service is no longer available.

(2) Service has been time-limited in the social service block grant preexpenditure report and as a result the service is no longer available.

(3) Payment for a medical claim has been made in accordance with the Medicaid payment schedule for the service billed.

(4) Children have been removed from or placed in a specific foster care setting.

b. Either state or federal law requires automatic grant adjustment for classes of recipients. The director of the department shall decide whether to grant a hearing in these cases. When the reason for an individual appeal is incorrect grant computation in the application of these automatic adjustments, a hearing may be granted.

c. State or federal law or regulation provides for a different forum for appeals.

d. The appeal is filed prematurely as there is no adverse action by the department.

e. Upon review, it is determined that the appellant does not meet the criteria of an aggrieved person as defined in rule 441—7.1(217).

7.5(3) Group hearings. The department may respond to a series of individual requests for hearings by requesting the department of inspections and appeals to conduct a single group hearing in cases in which the sole issue involved is one of state or federal law or policy or changes in state or federal law. An appellant scheduled for a group hearing may withdraw and request an individual hearing.

7.5(4) Time limit for granting hearing to an appeal. Subject to the provisions of subrule 7.5(1), when an appeal is made, the granting of a hearing to that appeal shall be governed by the following timeliness standards:

a. If the appeal is made within 30 days after official notification of an action, or before the effective date of action, a hearing shall be held.

b. When the appeal is made more than 30 days, but less than 90 days after notification, the director shall determine whether a hearing shall be granted. The director may grant a hearing if one or more of the following conditions existed:

(1) There was a serious illness or death of the appellant or a member of the appellant's family.

(2) There was a family emergency or household disaster, such as a fire, flood, or tornado.

(3) The appellant offers a good cause beyond the appellant's control, which can be substantiated.

(4) There was a failure to receive the department's notification for a reason not attributable to the appellant. Lack of a forwarding address is attributable to the appellant.

c. The time in which to appeal an agency action shall not exceed 90 days. Appeals made more than 90 days after notification shall not be heard.

d. The day after the official notice is mailed is the first day of the time period within which an appeal 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.

e. PROMISE JOBS displacement and discrimination appeals shall be granted hearing on the following basis:

(1) An appeal of an informal grievance resolution on a PROMISE JOBS displacement grievance shall be made in writing within ten days of issuance (i.e., mailing) of the resolution decision or within 24 days of the filing of the displacement grievance, whichever is the shorter time period, unless good cause for late filing as described in paragraph "b" is found.

(2) An appeal of a PROMISE JOBS discrimination complaint shall be made within the time frames provided in paragraphs "a," "b," and "c" in relation to the action alleged to have involved discrimination unless good cause for late filing as described in paragraph "b" is found.

7.5(5) Informal settlements. The time limit for submitting an appeal is not extended while attempts at informal settlement are in progress. Prehearing conferences are provided for at subrules 7.7(4) and 7.8(4).

7.5(6) Appeals of aid to dependent children (ADC) overpayments. Subject to the time limitations described in subrule 7.5(4), a person's right to appeal the existence, computation, and amount of an ADC overpayment begins when the person receives the first Form 470-2616, Demand Letter for ADC Overissuance, from the department of human services, informing the person of the ADC overpayment. A hearing shall not be held if an appeal is filed in response to a second or subsequent Demand Letter for ADC Overissuance. Subject to the time limitations described in subrule 7.5(4), a person's right to appeal the recovery of an overpayment through benefit reduction, as described at rule 441—46.5(239), but not the existence, computation, or amount of an overpayment, begins when the person receives Form 470-0486, Notice of Decision, informing the person that benefits will be reduced to recover an ADC overpayment.

7.5(7) Appeals of Medicaid and state supplementary assistance (SSA) overpayments. A person's right to appeal the existence and amount of a Medicaid or SSA overpayment begins when the person receives the first Form 470-2891, Notice of Overpayment, Demand Letter for the Medicaid or State Supplementary Assistance Overpayment, from the department of human services, informing the person of the Medicaid or SSA overpayment, and is subject to the time limitations described in subrule 7.5(4).

***7.5(8) Appeal rights under the family investment program limited benefit plan.** A person only has the right to appeal the establishment of the limited benefit plan once, but there shall be three opportunities to appeal. A person may appeal the limited benefit plan at the time of the Notice of Decision, Form PA-3102-0, establishing the beginning date of the limited benefit plan, at the time of the notice establishing the first month of the period of reduced benefits, or at the time of the notice establishing the six-month period of ineligibility. When the reason for an appeal is based on incorrect grant computation, error in determining the eligible group, or other worker error, a hearing may be granted.

This rule is intended to implement Iowa Code sections 17A.10 and 17A.22.

441—7.6(217) Informing persons of their rights.

7.6(1) Written and oral notification. The department shall advise each applicant and recipient of the right to appeal any adverse decision affecting the person's status. Written notification of the following shall be given at the time of application and at the time of any agency action affecting the claim for assistance.

- a. The right to request a hearing.
- b. The procedure for requesting a hearing.
- c. The right to be represented by others at the hearing unless otherwise specified by statute or federal regulation.
- d. Provisions, if any for payment of legal fees by the department.

Written notification shall be given on the application form and pamphlets prepared by the agency for applicants and recipients. Explanation shall be included in the agency pamphlets explaining the various provisions of the program. Oral explanation shall also be given regarding the policy on appeals during the application process and at the time of any contemplated action by the agency when the need for an explanation is indicated. Persons not familiar with English shall be provided a translation into the language understood by them in the form of a written pamphlet or orally. In all cases when a person is illiterate or semiliterate, the person shall, in addition to receiving the written pamphlet on rights, be advised of each right to the satisfaction of the person's understanding.

441—7.17(217) Exhausting administrative remedies. To have exhausted all adequate administrative remedies, a party need not request a rehearing under Iowa Code section 17A.16(2) where the party accepts the findings of fact as prepared by the administrative law judge, but wishes to challenge the conclusions of law, or departmental policy.

441—7.18(217) Ex parte communications and separation of functions.

7.18(1) Communication of the administrative law judge or director. The administrative law judge or director may communicate with any person or party concerning any appeal issue provided that the substance of the communication and any information received in reply are presented to all parties, allowing them an adequate opportunity to respond.

However, persons assigned to render a proposed or final decision or to make findings of fact and conclusions of law in a contested case may, without notice to the parties, communicate with members of the department, and may have the aid and advice of persons other than those with a personal interest in, or those engaged in prosecuting or advocating, either the case under consideration or a pending factually related case involving the same parties.

7.18(2) Communication with administrative law judge or director. Parties or their representatives may communicate with the administrative law judge or director concerning any appeal issue provided that the substance of the communication and any information received in reply are presented to all parties, allowing them an adequate opportunity to respond. The recipient of a prohibited communication shall submit the communication if written or a summary of the communication if oral for inclusion in the record of the proceeding, and shall send copies to all parties and allow an opportunity to respond. Where prohibited communications are directed to the administrative law judge or director, the administrative law judge or director may take whichever of the following sanctions are deemed necessary.

- a. Provide for a decision against the party who violates the rules.
- b. Censor, suspend or revoke a privilege to practice before the department.
- c. Recommend that any agency personnel who violate this rule should be censored, suspended, or dismissed.

441—7.19(217) Accessibility of hearing decisions. Summary reports of all hearing decisions shall be made available to local offices and the public. The information shall be presented in a manner consistent with requirements for safeguarding personal information concerning applicants and recipients.

441—7.20(217) Right of judicial review. If a director's review is requested the final decision shall advise the appellant of the right to judicial review by the district court. When the appellant is dissatisfied with the final decision, and appeals the decision to the district court, the department shall furnish copies of the documents or supporting papers which the appellant and legal representative may need in order to perfect the appeal to district court, including a written transcript of the hearing.

441—7.21(217) Food stamp hearings and appeals.

7.2(1) All appeal hearings in the food stamp program shall be conducted in accordance with federal regulation, Title 7, section 273.15, as amended to February 15, 1983.

7.21(2) All administrative disqualification hearings shall be conducted in accordance with federal regulation, Title 7, section 273.16, as amended to February 15, 1983.

a. Hearings over disqualification for intentional program violation shall be conducted by an administrative law judge.

b. The department of inspections and appeals shall send a form letter, Notice of Intentional Program Violation Hearing, 427-0364 by certified mail 30 calendar days prior to the initial hearing date.

c. The hearing may be scheduled as an in-person hearing or as a teleconference hearing. If the respondent appears at a teleconference hearing, the respondent must sign Form 427-0415, Agreement for Telephone Hearing, for the hearing to proceed by phone.

This rule is intended to implement Iowa Code section 17A.22.

441—7.22(217) Teleconference hearing. Rescinded IAB 12/13/89, effective 2/1/90.

[Filed December 27, 1971; amended December 2, 1974]

[Filed 4/30/76, Notice 3/22/76—published 5/17/76, effective 7/1/76]

[Filed 9/29/76, Notice 8/23/76—published 10/20/76, effective 11/24/76]

[Filed 3/27/78, Notice 2/8/78—published 4/19/78, effective 5/24/78]

[Filed 5/8/78, Notice 10/19/77—published 5/31/78, effective 7/5/78]

[Filed emergency 3/30/79—published 4/18/79, effective 3/30/79]

[Filed 5/5/80, Notice 2/20/80—published 5/28/80, effective 7/2/80]

[Filed 10/23/80, Notice 9/3/80—published 11/12/80, effective 12/17/80]

[Filed 6/2/81, Notice 3/18/81—published 6/24/81, effective 8/1/81]

[Filed 7/1/82, Notices 10/28/81, 12/23/81—published 7/21/82, effective 8/25/82]

[Filed 7/1/82, Notice 5/12/82—published 7/21/82, effective 9/1/82]

[Filed 10/28/83, Notice 8/17/83—published 11/23/83, effective 1/1/84]

[Filed 11/18/83, Notice 10/12/83—published 12/7/83, effective 2/1/84]

[Filed 12/16/83, Notice 11/9/83—published 1/4/84, effective 2/8/84]

[Filed 5/4/84, Notice 2/29/84—published 5/23/84, effective 7/1/84]

[Filed 5/4/84, Notice 3/14/84—published 5/23/84, effective 7/1/84]

[Filed 7/26/85, Notice 6/5/85—published 8/14/85, effective 10/1/85]

[Filed emergency 6/26/86—published 7/16/86, effective 7/1/86]

[Filed emergency 1/15/87—published 2/11/87, effective 1/15/87]

[Filed 1/15/87, Notice 12/3/86—published 2/11/87, effective 4/1/87]

[Filed emergency 7/14/89 after Notice 5/31/89—published 8/9/89, effective 8/1/89]

[Filed 11/16/89, Notice 9/20/89—published 12/13/89, effective 2/1/90]

[Filed 1/16/90, Notice 11/15/89—published 2/7/90, effective 4/1/90]

[Filed emergency 10/10/91 after Notice 8/21/91—published 10/30/91, effective 11/1/91]

[Filed 1/16/92, Notice 9/18/91—published 2/5/92, effective 4/1/92]

[Filed 1/16/92, Notice 11/27/91—published 2/5/92, effective 4/1/92]

[Filed without Notice 8/12/93—published 9/1/93, effective 11/1/93]

[Filed emergency 11/12/93—published 12/8/93, effective 1/1/94]

[Filed 12/16/93, Notice 9/1/93—published 1/5/94, effective 3/1/94]

[Filed 2/10/94, Notice 12/8/93—published 3/2/94, effective 5/1/94]

on the basis of whether the average net monthly income from self-employment is at least equal to the state or federal minimum wage, whichever is higher, multiplied by 129 hours a month. "Net monthly income" means income in a month remaining after deduction of allowable business expenses as described in subrule 41.7(2), paragraphs "k," "l," "m," "n" and "o."

(3) The deduction is allowable only when the care covers the actual hours of the individual's employment plus a reasonable period of time for commuting; or the period of time when the individual who would normally care for the child or incapacitated adult is employed at such hours that the individual is required to sleep during the waking hours of the child or incapacitated adult, excluding any hours a child is in school.

(4) Any special needs of a physically or mentally handicapped child or adult shall be taken into consideration in determining the deduction allowed.

(5) The expense shall be verified by receipt or a statement from the provider of care and shall be allowed when paid to any person except a parent or legal guardian of the child or another member of the eligible group.

c. After deducting the allowable work expenses as defined in subrule 41.7(2) "a," \$30 plus one-third of the total of the remaining monthly nonexempt earned income, earned as an employee or the net profit from self-employment, of each individual whose needs are included in the assistance grant is disregarded in determining eligibility and the amount of the assistance grant.

(1) Initial eligibility is determined without application of this disregard. Exception: When for any one of the four (4) months immediately preceding the date of reapplication the needs of the individual having the income were met in whole or in part by an aid to dependent children grant from any state, that individual is automatically eligible for the \$30 plus one-third disregard of earned income, provided the individual did not receive the disregard for four (4) consecutive months while receiving assistance.

(2) The \$30 plus one-third disregard shall be limited to four (4) consecutive months for each individual whose needs are included in the eligible group. Any individual whose needs are included in the eligible group and who received the disregard for four (4) consecutive months shall not receive the disregard again until the individual has not been a recipient of assistance for twelve (12) consecutive months. A month of suspension shall not be construed as an interruption of the four (4) consecutive months for receiving the disregard. However, the month of suspension shall not be counted as a month in which the disregard is received. A "recipient of assistance" includes an individual not receiving a payment due to the limitations on payment described in 441—45.6(239) and 441—45.7(239).

(3) Provided the individual remains a member of the eligible group after having received the \$30 plus one-third disregard for four (4) consecutive months, the individual is entitled to receive the \$30 disregard for the eight (8) consecutive months which follow the last month in which the \$30 plus one-third disregard was received.

When an individual is terminated from assistance after having received the \$30 plus one-third disregard for four (4) consecutive months, and then reapplies for assistance within the following eight (8) consecutive months, the applicant is automatically entitled to the \$30 disregard of earned income for any months remaining in the applicant's eight (8) consecutive month period.

d. Ineligibility for expenses and disregards.

(1) An applicant or recipient is not eligible for the standard work expense, child or adult care expense, or the disregards of earned income described in subrule 41.7(2) "c" for one month if within 30 days preceding the month of application or the report month the individual terminated employment, reduced earned income, or refused to accept a bona fide offer of employment, as defined in rule 441—42.1(239), in which the individual was able to engage, without good cause as defined in rule 441—93.33(249C).

(2) An applicant or recipient is not eligible for the standard work expense, care expense, or the disregards described in subrule 41.7(2)“c” for any month in which the individual failed, without good cause, to timely report a change in earned income or to timely report earned income on the Public Assistance Eligibility Report or the Review/Recertification Eligibility Document. Good cause for not timely returning a Public Assistance Eligibility Report or a Review/Recertification Eligibility Document or timely reporting a change in earned income shall be limited to circumstances beyond the control of the individual, such as, but not limited to, a failure by the department to provide needed assistance when requested, to give needed information, to follow procedure resulting in a delay in the return of the Public Assistance Eligibility Report, or the Review/Recertification Eligibility Document, or when conditions require the forms to be mailed other than with the regular end-of-the-month mailing. Good cause shall also include, but not be limited to, circumstances when the individual was prevented from reporting by a physical or mental disability, death or serious illness of an immediate family member; or other unanticipated emergencies; or mail was not delivered due to a disruption of regular mail delivery. The applicant or recipient who returns the Public Assistance Eligibility Report, or the Review/Recertification Eligibility Document, listing earned income, by the sixteenth day of the report month shall be considered to have good cause for not timely returning the Public Assistance Eligibility Report or the Review/Recertification Eligibility Document.

(3) A recipient is not eligible for the standard work expense, care expense, or the \$30 plus one-third disregard for any month in which the individual requested that assistance be canceled for the primary purpose of avoiding the receipt of the \$30 plus one-third disregard for four (4) consecutive months.

(4) Any month in which an applicant or recipient does not receive the \$30 plus one-third disregard due to the sanctions in subparagraphs (1), (2), and (3) shall be counted toward the four (4) consecutive months limitation of 41.7(2)“c”(2).

e. The earnings as defined in 41.7(2) of an eligible child are disregarded as income when the child is a full-time student as defined in 41.4(1)“e”(1) and (2) or a part-time student who is not a full-time employee, as defined in 41.7(2)“b.” A student is one who is attending a school, college or university, or a course of vocational or technical training designed to fit the person for gainful employment and includes a participant in the Job Corps program. Initial eligibility is determined without application of this disregard and the earned income of the eligible child shall be considered income in the 185 percent eligibility test prescribed in 41.7(239), unless the income is exempt under 41.7(7).

f. to i. Reserved.

j. A person is considered self-employed when the person:

(1) Is not required to report to the office regularly except for specific purposes such as sales training meetings, administrative meetings, or evaluation sessions.

(2) Establishes the person’s own working hours, territory, and methods of work.

(3) Files quarterly reports of earnings, withholding payments, and FICA payments to the internal revenue service.

k. The net profit from self-employment income in a nonhome based operation shall be determined by deducting only the following expenses that are directly related to the production of the income:

(1) The cost of inventories and supplies purchased that are required for the business, such as items for sale or consumption and raw materials.

(2) Wages, commissions, and mandated costs relating to the wages for employees of the self-employed.

(3) The cost of shelter in the form of rent; the interest on mortgage or contract payments; taxes; and utilities.

(4) The cost of machinery and equipment in the form of rent or the interest on mortgage or contract payments.

b. When an individual is out of the home to secure education or training, as defined for children in 41.24(1)“e” and for adults in 441—subrule 93.114(1), first sentence, as long as the caretaker relative retains supervision of the child.

c. An individual is out of the home for reasons other than reasons in paragraphs “a” and “b” and the payee intends that the individual will return to the home within three months. Failure to return within three months will result in the individual’s needs being removed from the grant.

41.23(4) *Citizenship and alienage.*

a. A family investment program assistance grant may include the needs of:

(1) A person who is a resident of the United States when the person is either a citizen or an alien lawfully admitted for permanent residence or otherwise legally permanently residing in the United States as evidenced by suitable documentary proof furnished by the Immigration and Naturalization Service of the United States Department of Justice.

(2) An alien granted lawful temporary resident status pursuant to Section 201 or 302 of the Immigration Reform and Control Act of 1986 (Public Law 99-603), who is a Cuban or Haitian entrant as defined in paragraph (1) or (2) (A) of Section 501(e) of Public Law 96-422, as in effect on April 1, 1983.

(3) An alien granted lawful temporary or permanent resident status pursuant to Section 201 or 302 of the Immigration Reform and Control Act of 1986 (Public Law 99-603), who is not a Cuban or Haitian entrant applicant, and who was adjusted to lawful temporary resident status more than five years prior to application. All other aliens granted lawful temporary or permanent resident status, pursuant to Section 201 or 302 of the Immigration Reform and Control Act of 1986, are disqualified for five years from the date lawful temporary resident status is granted.

b. As a condition of eligibility each recipient shall complete and sign Form 470-2549, Statement of Citizenship Status, attesting to the recipient’s citizenship or alien status, when the statement has not previously been signed on the application. The form shall be signed by the recipient, or when the recipient is incompetent or incapacitated, someone acting responsibly on the recipient’s behalf. When both parents are in the home, both shall sign the form. Adult recipient shall sign the form for dependent children. Failure to sign Form 470-2549 when required to do so creates ineligibility for the entire eligibility group.

This rule is intended to implement Iowa Code section 239.2.

441—41.24(239) Promoting independence and self-sufficiency through employment job opportunities and basic skills (PROMISE JOBS) program. An application for assistance constitutes a registration for the program for all members of the family investment program (FIP) case. Persons in any FIP case who are not exempt from referral to PROMISE JOBS shall enter into a family investment agreement (FIA) as a condition of receiving FIP, except as described at 41.24(8).

41.24(1) *Referral to PROMISE JOBS.*

a. All persons whose needs are included in a grant under the FIP program shall be referred to PROMISE JOBS as FIA-responsible persons unless the county office determines the persons are exempt.

b. Any parent living in the home of a child receiving a grant shall also be referred to PROMISE JOBS as an FIA-responsible person unless the county office determines the person is exempt.

c. Persons determined exempt from referral, including applicants, may volunteer for PROMISE JOBS.

41.24(2) *Exemptions.* The following persons are exempt from referral:

a. A person who is the parent or other relative of a child under six months of age, except as specified at 41.24(3), who is personally providing care for the child. Only one parent or

other relative in a case shall be exempt under this provision. This exemption is not applicable when the child is born during the period that the person has an FIA in effect. When there is an FIA in effect, the case shall be treated in accordance with rule 441—93.133(249C).

b. A person who is working 30 or more hours a week (129 or more hours a month) in unsubsidized employment at the time of the initial determination of PROMISE JOBS exemption status, so long as employment continues. When a recipient who has been previously determined to be a mandatory PROMISE JOBS participant accepts employment of 30 or more hours per week, either through PROMISE JOBS, the department of employment services or another source, the recipient does not become exempt as a result of accepting employment. For self-employed persons, hours of employment shall be determined by dividing the average net monthly income from self-employment by the state or federal minimum wage, whichever is greater. "Net monthly income" means income remaining after deduction of allowable business expenses as described in 41.27(2) "k," "l," "m," "n," and "o."

c. A person who is under the age of 16 and is not a parent.

d. A person who is disabled, according to the Americans with Disabilities Act, and unable to participate. Medical evidence of disability may be obtained from either an independent physician or psychologist or the state rehabilitation agency in the same manner specified in 41.21(5) "c."

e. A person who is aged 16 to 19, and is not a parent, who attends an elementary, secondary or equivalent level of vocational or technical school full-time.

(1) A person shall be considered to be attending school full-time when enrolled or accepted in a full-time (as certified by the school or institute attended) elementary, secondary or the equivalent level of vocational or technical school or training leading to a certificate or diploma. Correspondence school is not an allowable program of study.

(2) A person shall also be considered to be in regular attendance in months when the person is not attending because of an official school or training program vacation, illness, convalescence, or family emergency. A child meets the definition of regular school attendance until the child has been officially dropped from the school rolls.

(3) When a person's education is temporarily interrupted pending adjustment of the education or training program, exemption shall be continued for a reasonable period of time to complete the adjustment.

41.24(3) *Parents aged 19 and under.*

a. A parent aged 18 or 19 who has not successfully completed a high school education (or its equivalent) shall be required to participate in educational activities, directed toward the attainment of a high school diploma or its equivalent, regardless of the exemption criteria specified at 41.24(2) "a." The parent shall be required to participate in other PROMISE JOBS options if the person fails to make good progress in completing educational activities or if it is determined that participation in educational activities is inappropriate for the parent.

b. A parent aged 17 or younger who has not successfully completed a high school education or its equivalent shall be required to participate in high school completion activities, directed toward the attainment of a high school diploma or its equivalent, regardless of the exemption criteria specified at 41.24(2) "a."

41.24(4) *Method of referral.* When the FIP application is approved or when exempt status is lost, volunteers and persons who are not exempt from referral to PROMISE JOBS shall receive a letter which contains information about participant responsibility under PROMISE JOBS and the FIA and reminds the FIP participant to contact PROMISE JOBS within ten calendar days to schedule the PROMISE JOBS orientation. A referral file of volunteers and persons who are not exempt from referral shall be provided to the appropriate PROMISE JOBS provider agencies.

41.24(5) *Changes in status and redetermination of exempt status.* Any exempt person shall report any change affecting the exempt status to the county office within ten days of the change. The county office shall reevaluate exempt persons when changes in status occur and at the

time of six-month or annual review. The recipient and the PROMISE JOBS unit shall be notified of any change in a recipient's exempt status.

41.24(6) *Volunteers.* Any applicant and any recipient may volunteer for referral. The income maintenance worker shall not refer an applicant to the program when it appears that the applicant shall be ineligible for FIP.

41.24(7) *Referral to vocational rehabilitation.* The department shall make the department of education, division of vocational rehabilitation services, aware of any person determined exempt from referral to PROMISE JOBS because of a medically determined physical or mental impairment. However, acceptance of vocational rehabilitation services by the client is optional.

41.24(8) *The limited benefit plan (LBP).* When persons responsible for signing and meeting the terms of the FIA as described at rule 441—93.109(249C) choose not to fulfill those responsibilities, the FIP case, or the individual FIP recipient, will enter into the limited benefit plan (LBP) or individual limited benefit plan as described below.

a. From the effective date of the LBP, the FIP household will be eligible for up to three months of benefits for the entire eligible group, followed by up to three months of benefits based on the needs of the children only. At the end of the three-month period of reduced benefits, the FIP case shall be canceled and there shall be a six-month period of ineligibility. Exceptions for specific case circumstances are described in 41.24(8)“*b*” to “*f*.”

(1) A person who does not establish an orientation appointment or who fails to keep or reschedule an orientation appointment shall receive a reminder letter which reminds the person that those who do not attend orientation have indicated a choice of the LBP.

(2) A person who chooses not to respond to the reminder letter within ten calendars days from the mailing date shall receive Form PA-3102-0, Notice of Decision, establishing the beginning date of the LBP, the beginning date of the period of reduced benefits, and the beginning and ending dates of the six-month period of ineligibility. Timely and adequate notice provisions as described at 441—subrule 7.7(1) apply.

(3) A person who chooses not to sign the FIA after attending PROMISE JOBS orientation shall enter into the LBP as described in 41.24(8)“*a*”(2).

(4) A person who chooses the LBP in circumstances as described in subparagraphs (2) and (3) above shall have 45 days following the effective date of the LBP to reconsider and begin development of the FIA. The person can contact the department or the appropriate PROMISE JOBS office anytime during the first 45 days of the LBP, sign the FIA during the orientation and assessment process, and no reduction or termination of benefits will occur related to the LBP.

(5) If the person does not reconsider during the first 45 days following the effective date of the LBP, the person shall have another opportunity to enter the FIA process during the last two months (months five and six) of the reduced benefit period. If the person signs the FIA during the orientation and assessment process after entering the FIA process in either of the following circumstances, no termination of benefits will occur:

1. During the last two months of the period of reduced benefits, a qualified social services professional shall make inquiry into the well-being of the children. The department may contract out for these services. If the FIA-responsible person indicates a desire to develop an FIA, the qualified professional will initiate an appointment with the appropriate PROMISE JOBS office.

2. If the FIA-responsible person independently contacts the department or the appropriate PROMISE JOBS office anytime during the last two months of the reduced benefit period and signs the FIA during the orientation and assessment process, no termination of benefits will occur related to the LBP.

(6) A person who signs the FIA but does not carry out FIA responsibilities and, consequently, has chosen the LBP is not eligible for the reconsideration options described in 41.24(8)“*a*”(4) and (5). A qualified social services professional shall make inquiry as to the well-being of the children after the three-month reduced benefit period ends.

b. When the FIA-responsible person is a person included in the eligible group as described at 41.28(1)“*b*”(2), (3), and (4), who chooses the LBP in circumstances as described in

41.24(8)“a”(2), (3), and (6), the LBP shall be described as follows: From the effective date of the LBP, the FIP household will be eligible for up to three months of benefits for the entire eligible group, followed by three months of reduced benefits and six months of ineligibility for the FIA-responsible person. The FIA-responsible person shall be ineligible during the three-month period of reduced benefits except as described at 41.24(8)“a”(4) and (5).

c. When the FIP eligible group holds a minor parent living with a parent who receives FIP, as described at 41.28(2)“b”(2), and both parents are FIA-responsible persons, each parent is responsible for a separate FIA, and the LBP shall be described as follows:

(1) When the adult parent chooses the LBP in circumstances as described in 41.24(8)“a”(2), (3) and (6), the policies of the LBP shall apply to the entire eligible group, even though the minor parent has not chosen the LBP. The minor parent could reapply for FIP as a minor parent living with self-supporting parents and continue in the FIA process.

(2) When the minor parent chooses the LBP in circumstances as described in 41.24(8)“a”(2), (3) and (6), the policies of the LBP shall apply to the minor parent and child(ren).

(3) If the minor parent is the only child in the home and the minor parent chooses the LBP, the adult parent shall remain eligible as long as the adult parent fulfills FIA responsibilities and other FIP eligibility factors are met.

d. When the FIP eligible group holds children who are mandatory PROMISE JOBS participants, children would not have a separate FIA, but would be asked to sign the family FIA and carry out the activities of the FIA, and an LBP could be applied as follows:

(1) While the FIA-responsible parent meets FIA responsibilities, a child who is a mandatory PROMISE JOBS participant could choose an individual LBP in circumstances as described in 41.24(8)“a”(2), (3), and (6). In these situations, the FIP household shall be eligible for up to three months of benefits for the entire eligible group, followed by up to three months of reduced benefits and six months of ineligibility for the child who has chosen the LBP. The child shall be ineligible during the three-month period of reduced benefits except as described at 41.24(8)“a”(4) and (5).

(2) If the child who is a mandatory PROMISE JOBS participant is the only child in the home and chooses the individual LBP, the parent or parents shall remain eligible as long as the parent or parents fulfill FIA responsibilities and other FIP eligibility factors are met.

e. When the FIP eligible group holds a parent or parents who are exempt and children who are mandatory PROMISE JOBS participants, the children are responsible for completing an FIA. If a child who is a mandatory PROMISE JOBS participant chooses the LBP, the circumstances of the LBP shall be as described in 41.24(8)“d”(1) and (2).

*f. When the FIP household contains two parents the following LBP policies shall apply:

(1) When only one parent of a child on the grant is an FIA-responsible person and that parent chooses the LBP in circumstances as described in 41.24(8)“a”(2), (3), and (6), the LBP cannot be ended by volunteer participation by the exempt parent. However, the exempt parent can remain on the grant during the three-month reduced benefit period by participating in the FIP-UP work program described at rule 441—93.122(249C).

(2) When both parents of a child on the grant are FIA-responsible persons, both are expected to sign the FIA. If either parent chooses the LBP in circumstances as described in 41.24(8)“a”(2), (3), and (6), the LBP cannot be ended by the participation by the other parent. However, the exempt parent can remain on the grant during the three-month reduced benefit period by participating in the FIP-UP work program described at rule 441—93.122(249C).

(3) If parents from a two-parent household in the LBP separate, the LBP would follow only a parent who chose the LBP and any children in the home of that parent.

41.24(9) Nonparticipation by volunteers.

a. Volunteer participants are not subject to the limited benefit plan as described at 41.24(8).

(1) Volunteer participants who do not schedule or keep an appointment for orientation or who choose not to complete an FIA after attending orientation shall have PROMISE JOBS referral status changed to exempt by the income maintenance worker. No penalty is involved.

(2) Volunteers who complete the FIA and choose not to carry out the activities or meet the responsibilities of the FIA, including resolving participation issues as described at rule 441—93.132(249C), shall be deactivated from the PROMISE JOBS program after completion of the conciliation process described below. Volunteers who are deactivated from the program after completing the FIA shall not be eligible for priority program services as long as other participants are waiting for services.

b. Conciliation for volunteers shall be provided by a conciliation unit established by the PROMISE JOBS local service delivery area. PROMISE JOBS staff from DES shall conciliate in cases decided by JTPA workers and PROMISE JOBS staff from JTPA shall conciliate in cases decided by DES workers. The bureau of refugee services shall arrange with PROMISE JOBS staff of DES and JTPA to provide conciliation services when the need arises. If the local service delivery area has developed interagency teams of PROMISE JOBS staff, teams shall be assigned to conciliate in cases decided by other teams.

(1) When the PROMISE JOBS worker determines that an exempt volunteer, after signing the FIA, has chosen not to carry out the activities or responsibilities of the FIA, the worker shall notify the conciliation unit of the PROMISE JOBS local service delivery area. This notice shall include documentation of the issues of participation or problems of participation which have not been resolved. The conciliation unit shall review the material to determine if the nonfinancial sanction of loss of priority service is applicable. If the conciliation unit disagrees with the PROMISE JOBS worker, the conciliation unit shall contact the worker to resolve the issue. If the conciliation unit agrees with the PROMISE JOBS worker, the conciliation unit shall initiate a 30-day conciliation period by issuing the Notice of Potential Sanction—Exempt Volunteers, Form 470-2667, to the participant. During this 30-day period, the participant can present additional information to the conciliation unit to resolve the issues of participation or problems with participation, or identify barriers to participation which should be addressed in the FIA. If the conciliation unit finds that the participant has chosen not to carry out the activities or responsibilities of the FIA, a nonfinancial sanction of loss of priority service shall be imposed. The conciliation period begins the day following the day the Notice of Potential Sanction—Exempt Volunteers is issued.

(2) If the participant presents additional information which indicates resolution of issues of participation or problems with participation, or which indicates a barrier to participation which will be addressed in the FIA, the conciliation unit shall review these with the PROMISE JOBS worker, with conciliation staff having the final say. If the issues and problems are not resolved, barriers to participation are not identified, or the participant indicates unwillingness to include the barriers to participation in a renegotiated FIA, the conciliation unit shall notify the PROMISE JOBS worker to apply the loss of priority services sanction.

41.24(10) Notification of services.

a. The department shall inform all applicants for and recipients of FIP of the advantages of employment under FIP.

b. The department shall provide a full explanation of the family rights, responsibilities, and obligations under PROMISE JOBS and the FIA, with information on the time-limited nature of the agreement.

c. The department shall provide information on the employment, education and training opportunities, and support services to which they are entitled under PROMISE JOBS, as well as the obligations of the department. This information shall include explanations of transitional child care and transitional Medicaid.

d. The department shall inform applicants for and recipients of FIP benefits of the grounds for exemption from FIA responsibility and from participation in the PROMISE JOBS program.

e. The department shall explain the LBP and the process by which FIA-responsible persons and mandatory PROMISE JOBS participants can choose the LBP or individual LBP.

f. The department shall inform all applicants for and recipients of FIP of their responsibility to cooperate in establishing paternity and enforcing child support obligations.

g. Within 30 days of the date of application for FIP, the department shall notify the applicant or recipient of the opportunity to volunteer for the program. Notification shall include a description of the procedure to be used in volunteering for the program.

41.24(11) Phase-in for PROMISE JOBS and FIA referrals. Persons who were active or considered persons on a FIP case and who were exempt from referral to PROMISE JOBS prior to January 1, 1994, shall be referred to PROMISE JOBS when a change in circumstances, other than the age of a child, becomes known to the income maintenance worker or at the time of the annual face-to-face interview as described at 441—subrule 40.27(1), whichever is earlier. Exemptions due to the age of a child shall be reviewed only at the time of the annual face-to-face interview.

This subrule is not applicable to cases which experience a break in assistance.

This rule is intended to implement Iowa Code sections 239.2, 239.5, 239.18, 249C.6, and 249C.17.

441—41.25(239) Uncategorized factors of eligibility.

41.25(1) Divesting of income. Assistance shall not be approved when an investigation proves that income was divested and the action was deliberate and for the primary purpose of qualifying for assistance or increasing the amount of assistance paid.

41.25(2) Duplication of assistance. A recipient whose needs are included in a family investment program grant shall not concurrently receive a grant under any other public assistance program administered by the department, including IV-E foster care, or state-funded foster care. A recipient shall not concurrently receive the family investment program and subsidized adoption unless exclusion of the person from the FIP grant will reduce benefits to the family. Neither shall a recipient concurrently receive a grant from a public assistance program in another state. When a recipient leaves the home of a specified relative, no payment for a concurrent period shall be made for the same recipient in the home of another relative.

41.25(3) Aid from other funds. Supplemental aid from any other agency or organization shall be limited to aid for items of need not covered by the department's standards and to the amount of the percentage reduction used in determining the payment level. Any duplicated assistance shall be considered unearned income.

41.25(4) Contracts for support. A person entitled to total support under the terms of an enforceable contract is not eligible to receive the family investment program when the other party, obligated to provide the support, is able to fulfill that part of the contract.

41.25(5) Participation in a strike.

a. The family of any parent with whom the child(ren) is living shall be ineligible for the family investment program for any month in which the parent is participating in a strike on the last day of the month.

b. Any individual shall be ineligible for the family investment program for any month in which the individual is participating in a strike on the last day of that month.

c. Definitions:

(1) A strike is a concerted stoppage of work by employees (including a stoppage by reason of expiration of a collective bargaining agreement) and any concerted slowdown or other concerted interruption of operations by employees.

(2) An individual is not participating in a strike at the individual's place of employment when the individual is not picketing and does not intend to picket during the course of the dispute, does not draw strike pay, and provides a signed statement that the individual is willing and ready to return to work but does not want to cross the picket line solely because of the risk of personal injury or death or trauma from harassment. The district administrator shall determine whether such a risk to the individual's physical or emotional well-being exists.

41.25(6) Aliens sponsored by an agency or organization.

a. An alien sponsored by a public or private agency or organization which executed an affidavit for support shall be ineligible for the family investment program assistance for three

with the allowable costs of producing the income. Income shall be considered earned income when it is produced as a result of the performance of services by an individual.

a. Each person in the assistance unit whose gross nonexempt earned income, earned as an employee or net profit from self-employment, is considered in determining eligibility and the amount of the assistance grant is entitled to one 20 percent earned income deduction of non-exempt monthly gross earnings. The deduction is intended to include all work-related expenses other than child care. These expenses shall include, but are not limited to, all of the following: taxes, transportation, meals, uniforms, and other work-related expenses.

b. Each person in the assistance unit is entitled to a deduction for care expenses subject to the following limitations:

Persons in the eligible group and excluded parents, other than parents described at 41.23(4)“a”(3), shall be allowed care expenses for a child or incapacitated adult in the eligible group.

Parents as described at 41.23(4)“a”(3) shall be allowed child care expenses for the children in the eligible group.

Stepparents as described at 41.27(8)“b” and self-supporting parents on underage parent cases as described at 41.27(8)“c” shall be allowed child care expenses for the ineligible dependents of the stepparent or self-supporting parent.

(1) Child care or care for an incapacitated adult shall be considered a work expense in the amount paid for care of an individual, not to exceed \$175, or \$200 in the case of a child under the age of two, per month for a full-time employee and \$174, or \$199 in the case of a child under the age of two, for a part-time employee or the going rate in the community, whichever is less.

(2) Full-time employment shall be defined as employment of 129 or more hours per month. Part-time employment shall be defined as employment fewer than 129 hours per month. The determination as to whether self-employment income is full time or part time shall be made on the basis of whether the average net monthly income from self-employment is at least equal to the state or federal minimum wage, whichever is higher, multiplied by 129 hours a month. “Net monthly income” means income in a month remaining after deduction of allowable business expenses as described in subrule 41.27(2), paragraphs “k,” “l,” “m,” “n” and “o.”

(3) The deduction is allowable only when the care covers the actual hours of the individual’s employment plus a reasonable period of time for commuting; or the period of time when the individual who would normally care for the child or incapacitated adult is employed at such hours that the individual is required to sleep during the waking hours of the child or incapacitated adult, excluding any hours a child is in school.

(4) Any special needs of a physically or mentally handicapped child or adult shall be taken into consideration in determining the deduction allowed.

(5) The expense shall be verified by receipt or a statement from the provider of care and shall be allowed when paid to any person except a parent or legal guardian of the child or another member of the assistance unit, or to any person whose needs are met by diversion of income from any person in the assistance unit.

c. After deducting the allowable work expenses as defined in 41.27(2)“a” and “b,” and income diversions as defined in subrules 41.27(4) and 41.27(8), 50 percent of the total of the remaining monthly nonexempt earned income, earned as an employee or the net profit from self-employment, of each individual whose income must be considered is deducted in determining eligibility and the amount of the assistance grant. The 50 percent work incentive deduction is not time-limited.

d. Ineligibility for expenses and disregards.

(1) Except for persons in 41.27(8)“b” and 41.27(8)“c,” a person whose earned income must be considered is not eligible for the 20 percent earned income deduction or the child or adult care expense described in 41.27(2)“a” and “b” for one month if within 30 days preceding the month of application or the report month the individual terminated employment, reduced earned income, or refused to accept a bona fide offer of employment, as defined in rule 441—42.21(239), in which the individual was able to engage, unless the individual has identified problems with participation of a temporary or incidental nature as described in rule 441—93.133(249C) or barriers to participation as described in rule 441—93.134(249C). However, the individual is eligible for the 50 percent work incentive deduction as described at 41.27(2)“c,” if there are earnings to be considered.

(2) Except for persons in 41.27(8)“b” and 41.27(8)“c,” a person whose earned income must be considered is not eligible for the 20 percent earned income deduction or the care expense described in 41.27(2)“a” and “b” for any month in which the individual failed, without good cause, to timely report a change in earned income or to timely report earned income on the Public Assistance Eligibility Report or the Review/Recertification Eligibility Document. However, the individual is eligible for the 50 percent work incentive deduction described in 41.27(2)“c.” Good cause for not timely returning a Public Assistance Eligibility Report or a Review/Recertification Eligibility Document or timely reporting a change in earned income shall be limited to circumstances beyond the control of the individual, such as, but not limited to, a failure by the department to provide needed assistance when requested, to give needed information, to follow procedure resulting in a delay in the return of the Public Assistance Eligibility Report, or the Review/Recertification Eligibility Document, or when conditions require the forms to be mailed other than with the regular end-of-the-month mailing. Good cause shall also include, but not be limited to, circumstances when the individual was prevented from reporting by a physical or mental disability, death or serious illness of an immediate family member; or other unanticipated emergencies; or mail was not delivered due to a disruption of regular mail delivery. The applicant or recipient who returns the Public Assistance Eligibility Report, or the Review/Recertification Eligibility Document, listing earned income, by the sixteenth day of the report month shall be considered to have good cause for not timely returning the Public Assistance Eligibility Report or the Review/Recertification Eligibility Document.

employment from babysitting for several different families). The date the new employment or self-employment begins shall be verified before approval of the exemption. The client's statement shall be accepted with regard to the amount of earnings received in the 12 months before the new job unless the statement seems questionable in the worker's prudent judgment and further verification is indicated.

ag. Terminated income of recipient households who are subject to retrospective budgeting beginning with the calendar month the source of the income is absent, provided the absence of the income is timely reported as described at 441—40.27(4)“f”(1). EXCEPTION: Income that terminated in one of the two initial months occurring at time of an initial application that was not used prospectively shall be considered retrospectively as required by 41.27(9)“b”(1). In the case of earned income, the exemption does not apply to any person who quit employment unless the person has identified problems with participation of a temporary or incidental nature as described at rule 441—93.133(249C) or barriers to participation as described at rule 441—93.134(249C). If income terminated and is timely reported but a grant adjustment cannot be made effective the first of the next month, a payment adjustment shall be made. This subrule shall not apply to nonrecurring lump-sum income defined at 41.27(9)“c”(2).

41.27(8) Treatment of income in excluded parent cases, stepparent cases, and underage parent cases.

a. Treatment of income in excluded parent cases.

(1) Treatment of income when parent is a citizen or an alien other than those described in 41.23(4)“a”(3). A parent who is living in the home with the eligible child(ren) but whose needs are excluded from the eligible group is eligible for the 20 percent earned income deduction, child care expenses for children in the eligible group, the 50 percent work incentive deduction described at 41.27(2)“a,” “b,” and “c,” and diversions described at 41.27(4), and shall be permitted to retain that part of the parent's income to meet the parent's needs as determined by the difference between the needs of the eligible group with the parent included and the needs of the eligible group with the parent excluded except as described at 41.27(11). All remaining nonexempt income of the parent shall be applied against the needs of the eligible group. Excluded parents are subject to the earned income sanctions at 41.27(2)“d”(1) and (2). The 20 percent earned income deduction and child care expenses described at 41.27(2)“a” and “b” shall not be allowed for sanctioned earnings. However, the 50 percent work incentive deduction as in 41.27(2)“c” and diversions in 41.27(4) shall be allowed.

(2) Treatment of income of a parent who is ineligible because of lawful temporary or permanent resident status. The income of a parent who is ineligible as described in 41.23(4)“a”(3) shall be attributable to the eligible group in the same manner as the income of a stepparent is determined pursuant to 41.27(8)“b”(1) to (7), (9) and (10), except for child care expenses which are only allowed for the children in the eligible group. Nonrecurring lump sum income received by the parent shall be treated in accordance with 41.27(9)“c”(2). The alien parent is subject to the earned income sanctions in 41.27(2)“d”(1) and (2). The 20 percent earned income deduction and child care expenses in 41.27(2)“a” and “b” shall not be allowed for sanctioned earnings. However, the 50 percent work incentive deduction in 41.27(2)“c” shall be allowed.

b. Treatment of income in stepparent cases. The income of a stepparent who is not included in the eligible group, but is living with the parent in the home of the eligible child(ren), shall be given the same consideration and treatment as that of a natural parent subject to the limitations of subparagraphs (1) to (11) below.

(1) The stepparent's monthly gross nonexempt earned income, earned as an employee or monthly net profit from self-employment, shall receive a 20 percent earned income deduction.

(2) The stepparent's monthly nonexempt earned income remaining after the 20 percent earned income deduction shall be allowed child care expenses for the stepparent's ineligible dependents in the home, subject to the restrictions described in 41.27(2)“b”(1) to (5).

(3) Any amounts actually paid by the stepparent to individuals not living in the home, who are claimed or could be claimed by the stepparent as dependents for federal income tax purposes, shall be deducted from nonexempt monthly earned and unearned income of the stepparent.

(4) The stepparent shall also be allowed a deduction from nonexempt monthly earned and unearned income for alimony and child support payments made to individuals not living in the home with the stepparent.

(5) Except as described at 41.27(11), the nonexempt monthly earned and unearned income of the stepparent remaining after application of the deductions in 41.27(8)“b”(1) to (4) above shall be used to meet the needs of the stepparent and the stepparent’s dependents living in the home, when the dependents’ needs are not included in the eligible group and the stepparent claims or could claim the dependents for federal income tax purposes. These needs shall be determined in accordance with the family investment program standard of need for a family group of the same composition.

(6) The stepparent shall be allowed the 50 percent work incentive deduction from monthly earnings. The deduction shall be applied to earnings that remain after all other deductions in 41.27(8)“b”(1) through (5) have been subtracted from the earnings.

(7) The deductions described in subparagraphs (1) through (6) will first be subtracted from earned income in the same order as they appear above.

When the stepparent has both nonexempt earned and unearned income and earnings are less than the allowable deductions, then any remaining portion of the deductions in subparagraphs (3) through (5) shall be subtracted from unearned income. Any remaining income shall be applied as unearned income to the needs of the eligible group.

If the stepparent has earned income remaining after allowable deductions, then any non-exempt unearned income shall be added to the earnings and the resulting total counted as unearned income to the needs of the eligible group.

(8) A nonexempt nonrecurring lump sum received by a stepparent shall be considered as income in the budget month, and counted in computing eligibility and the amount of the grant for the payment month. Any portion of the nonrecurring lump sum retained by the stepparent in the month following the month of receipt shall be considered a resource to the stepparent.

(9) When the income of the stepparent, not in the eligible group, is insufficient to meet the needs of the stepparent and the stepparent’s dependent, but ineligible, child(ren) living in the home, the income of the parent may be diverted to meet the unmet needs of the child(ren) of the current marriage except as described at 41.27(11).

(10) When the needs of the stepparent, living in the home, are not included in the eligible group, the eligible group and any dependent but ineligible child(ren) of the parent shall be considered as one unit, and the stepparent and the stepparent’s dependents, other than the spouse, shall be considered a separate unit.

(11) The earned income sanctions described in 41.27(2)“d”(1) and (2) do not apply to earnings of the stepparent.

c. Treatment of income in underage parent cases. In the case of a dependent child whose unmarried parent is under the age of 18 and living in the same home as the unmarried, underage parent’s own self-supporting parent(s), the income of each self-supporting parent shall be considered available to the eligible group after appropriate deductions. The deductions to be applied are the same as are applied to the income of a stepparent pursuant to 41.27(8)“b”(1) to (7). Child care expenses in 41.27(8)“b”(2) shall be allowed for the self-supporting parent’s(s) ineligible child(ren). Nonrecurring lump sum income received by the self-supporting parent(s) shall be treated in accordance with 41.27(8)“b”(8).

When the self-supporting spouse of a self-supporting parent is also living in the home, the income of that spouse shall be attributable to the self-supporting parent in the same manner as the income of a stepparent is determined pursuant to 41.27(8)“b”(1) to (7). Child care expenses in 41.27(8)“b”(2) shall be allowed for the ineligible dependents of the self-supporting spouse who is a stepparent of the minor parent. Nonrecurring lump sum income received by the spouse of the self-supporting parent shall be treated in accordance with 41.27(8)“b”(8). The self-supporting parent and any ineligible dependents of that person shall be considered

- [Filed 11/15/85, Notice 10/9/85—published 12/4/85, effective 2/1/86]
- [Filed emergency after Notice 12/2/85, Notice 10/23/85—published 12/18/85, effective 1/1/86]
- [Filed 3/21/86, Notice 9/25/85—published 4/9/86, effective 6/1/86]
- [Filed without Notice 4/28/86—published 5/21/86, effective 7/1/86]
- [Filed emergency 5/28/86, after Notice 4/9/86—published 6/18/86, effective 6/1/86]
- [Filed emergency 7/25/86 after Notice 6/4/86—published 8/13/86, effective 8/1/86]
- [Filed emergency 8/28/86 after Notice 7/16/86—published 9/24/86, effective 9/1/86]
- [Filed 9/3/86, Notice 7/2/86—published 9/24/86, effective 11/1/86]
- [Filed emergency 11/14/86 after Notice 10/8/86—published 12/3/86, effective 12/1/86]
- [Filed 11/14/86, Notice 10/8/86—published 12/3/86, effective 2/1/87]
- [Filed emergency 1/15/87—published 2/11/87, effective 1/15/87]
- [Filed emergency 1/15/87—published 2/11/87, effective 2/1/87]
- [Filed 4/29/87, Notice 3/11/87—published 5/20/87, effective 7/1/87]
- [Filed emergency 8/28/87—published 9/23/87, effective 9/1/87]
- [Filed 10/23/87, Notice 7/15/87—published 11/18/87, effective 1/1/88]
- [Filed 11/25/87, Notice 9/23/87—published 12/16/87, effective 2/1/88]
- [Filed 2/17/88, Notice 12/30/87—published 3/9/88, effective 6/1/88]
- [Filed without Notice 3/17/88—published 4/6/88, effective 6/1/88]
- [Filed 3/17/88, Notice 1/27/88—published 4/6/88, effective 6/1/88]
- [Filed 4/22/88, Notice 3/9/88—published 5/18/88, effective 7/1/88]
- [Filed 5/13/88, Notices 12/16/87, 3/23/88—published 6/1/88, effective 8/1/88]
- [Filed emergency 6/9/88 after Notice 5/4/88—published 6/29/88, effective 7/1/88]
- [Filed emergency 12/8/88—published 12/28/88, effective 12/8/88]
- [Filed 2/16/89, Notice 1/11/89—published 3/8/89, effective 5/1/89]
- [Filed emergency 4/13/89 after Notice of 3/8/89—published 5/3/89, effective 5/1/89]
- [Filed 4/13/89, Notices 2/22/89, 3/8/89—published 5/3/89, effective 7/1/89]
- [Filed emergency 6/9/89—published 6/28/89, effective 7/1/89]
- [Filed emergency 6/29/89 after Notice 5/3/89—published 7/26/89, effective 7/1/89]
- [Filed 8/17/89, Notice 6/28/89—published 9/6/89, effective 11/1/89]
- [Filed emergency 9/15/89—published 10/4/89, effective 10/1/89]
- [Filed 12/15/89, Notice 7/26/89—published 1/10/90, effective 3/1/90]
- [Filed emergency 2/16/90—published 3/7/90, effective 4/1/90]
- [Filed 4/13/90, Notices 2/21/90, 3/7/90—published 5/2/90, effective 7/1/90]
- [Filed emergency 5/11/90—published 5/30/90, effective 7/1/90]
- [Filed 6/14/90, Notice 4/18/90—published 7/11/90, effective 9/1/90]
- [Filed 7/13/90, Notice 5/30/90—published 8/8/90, effective 10/1/90]
- [Filed emergency 8/16/90 after Notice of 7/11/90—published 9/5/90, effective 9/1/90]
- [Filed 8/16/90, Notice 6/13/90—published 9/5/90, effective 11/1/90]
- [Filed 12/13/90, Notice 10/31/90—published 1/9/91, effective 3/1/91]
- [Filed emergency 2/14/91 after Notice of 1/9/91—published 3/6/91, effective 3/1/91]
- [Filed emergency 3/14/91—published 4/3/91, effective 3/14/91]
- [Filed without Notice 4/11/91—published 5/1/91, effective 7/1/91]
- [Filed 5/17/91, Notice 3/20/91—published 6/12/91, effective 8/1/91]
- [Filed emergency 6/14/91—published 7/10/91, effective 7/1/91]
- [Filed 7/10/91, Notice 5/29/91—published 8/7/91, effective 10/1/91]
- [Filed 9/18/91, Notice 7/10/91—published 10/16/91, effective 12/1/91]
- [Filed emergency 10/10/91 after Notice 9/4/91—published 10/30/91, effective 11/1/91]
- [Filed 11/15/91, Notice 9/18/91—published 12/11/91, effective 2/1/92]
- *[Filed 12/11/91, Notice 10/16/91—published 1/8/92, effective 3/1/92]

¶Two ARCs

*Effective date of 3/1/92 delayed until adjournment of the 1992 General Assembly by the Administrative Rules Review Committee at its meeting held February 3, 1992.

Note: History for Ch 41 continued on next page.

[Filed 1/16/92, Notice 9/18/91—published 2/5/92, effective 4/1/92]

[Filed emergency 4/15/92—published 5/13/92, effective 4/16/92]

[Filed emergency 6/11/93 after Notice 4/28/93—published 7/7/93, effective 7/1/93]

[Filed emergency 9/17/93—published 10/13/93, effective 10/1/93]

[Filed emergency 11/12/93—published 12/8/93, effective 1/1/94]

[Filed 12/16/93, Notice 10/13/93—published 1/5/94, effective 3/1/94]

[Filed 2/10/94, Notice 12/8/93—published 3/2/94, effective 5/1/94]



ents are currently working less than 100 hours per month, the 30-day period shall be tied to the date that either parent last worked 100 or more hours.

When self-employed, the hours of employment shall be established in accordance with either of the methods described in subparagraphs (1) and (2) below, at the option of the applicant or recipient.

(1) The hours of employment may be determined on the basis of the actual hours worked, when the actual hours can be verified by reliable written evidence from a disinterested third party, for example, the person who contracted the labor of the applicant or recipient.

(2) The hours of employment may be computed by dividing net income from self-employment by the federal or state minimum wage, whichever is greater. "Net monthly income" means income remaining after deduction of allowable business expenses as described in subrule 41.27(2), paragraphs "k," "l," "m," "n," and "o."

b. The parent who is an applicant who is out of work due to refusal without good cause of a bona fide offer of employment or training for employment shall not be considered unemployed. The parent who is a recipient who is out of work due to refusal without good cause of a bona fide offer of employment or training shall be subject to 42.24(4).

c. The parent who is out of work due to a labor dispute shall not be considered unemployed. d. All parents are automatically registered for work under the provisions of rule 441—41.24(239) and subrule 41.22(14). Unless determined exempt, both parents shall be referred to the PROMISE JOBS program. In addition, while the application is pending, both parents shall cooperate in being referred to work by taking Form PA-2138-5, Unemployed Parent Referral to Employment Services, to the department of employment services. Both parents shall apply for and receive job insurance benefits when eligible. When either parent fails to cooperate in the referral to the department of employment services or refuses to apply for or draw unemployment benefits, there is no eligibility on the basis of unemployment.

e. Notwithstanding any other provision of this subrule, while the application is pending the parent shall cooperate with the department of employment services in actively searching for employment or training for employment, unless the parent is participating in a training plan, or working at least 30 hours a week (129 hours a month), or providing care to a child as described at 441—paragraph 41.24(2) "a." Either parent who fails or refuses to cooperate with the department of employment services without good cause, as defined in 42.24(3), shall not be considered unemployed.

42.24(2) Failure to cooperate. A parent shall not, without good cause, end, limit, or reduce hours of employment; refuse job search assistance or counseling when a counselor is assigned from employment services; or refuse a bona fide offer of employment or training for employment. Failure to follow up on a job or training referral shall be considered the same as a refusal.

When either parent who is an applicant fails to cooperate, the parent is not considered to be unemployed. The needs of any person in the eligible group whose eligibility is dependent on either parent's unemployment shall not be included in the assistance grant. When the parent is a recipient, then the eligible group is subject to 42.24(4).

42.24(3) Establishing good cause.

a. When a bona fide offer of employment or training is made independently of the PROMISE JOBS program, the determination of whether or not there was good cause for refusal is an income maintenance responsibility.

b. Good cause for limiting or reducing hours, ending or refusing a bona fide offer of employment or training exists when any of the problems with participation of a temporary or incidental nature specified in rule 441—93.133(249C) are identified or barriers to participation as described at rule 441—93.134(249C) are identified.

c. When an offer of employment or training is through the PROMISE JOBS program, the determination as to whether the offer is bona fide, or whether there is good cause to refuse it, shall be made by PROMISE JOBS program staff who shall initiate the limited benefit plan as described at 441—subrule 41.24(8). Any appeal from a mandatory referral shall be directed to the department.

42.24(4) Relationship with the PROMISE JOBS program. Unless determined exempt, both parents shall be referred to and shall be required to participate in the PROMISE JOBS program. Any parent may volunteer for the program.

The policies of the family investment agreement (FIA) described at rule 441—93.109(249C) and the family investment program-unemployed parent work program described at rule 441—93.122(249C) are applicable to both parents. When FIA-responsible persons choose not to sign the FIA or choose not to meet the responsibilities of the FIA, the household has chosen the limited benefit plan, as described at 441—subrule 41.24(8).

441—42.25(239) Not considered unemployed. After assistance is approved, when either parent is no longer considered unemployed, in accordance with paragraph 42.24(1)“c” or because of failure to apply for or draw job insurance benefits, ineligibility shall result for those persons whose eligibility is dependent on the unemployment of both parents, for a minimum of one month.

441—42.26(239) Inclusion of the nonqualifying parent. Rescinded IAB 10/13/93, effective 10/1/93.

441—42.27(239) Income maintenance worker contact to ensure active search for employment or training. Rescinded IAB 10/13/93, effective 10/1/93.

441—42.28(239) Assistance continued. An adjustment period following the incapacitated parent’s recovery or the absent parent’s return home shall continue for only as long as is necessary to determine whether there is eligibility on the basis of parental unemployment. When deprivation on the basis of unemployment cannot be established, assistance shall be continued for a maximum of three monthly grants.

These rules are intended to implement Iowa Code sections 239.2, 239.5 and 239.17.

[Filed emergency 7/1/82—published 7/21/82, effective 7/1/82]

[Filed 9/23/82, Notice 7/21/82—published 10/13/82, effective 12/1/82]

[Filed 4/21/83, Notice 3/2/83—published 5/11/83, effective 7/1/83]

[Filed 4/21/83, Notice 2/16/83—published 5/11/83, effective 7/1/83]

[Filed emergency 6/17/83—published 7/6/83, effective 7/1/83]

[Filed emergency 9/1/83—published 9/28/83, effective 9/1/83]

[Filed emergency 9/26/83—published 10/12/83, effective 9/30/83]

[Filed emergency 9/26/83—published 10/12/83, effective 10/1/83]

[Filed 11/18/83, Notice 9/28/83, 10/12/83—published 12/7/83, effective 2/1/84] ♦

[Filed emergency 2/10/84—published 2/29/84, effective 3/1/84]

[Filed emergency after Notice 6/15/84—Notice 5/9/84—published 7/4/84, effective 7/1/84]

[Filed without Notice 9/28/84—published 10/24/84, effective 12/1/84]

[Filed emergency 12/11/84—published 1/2/85, effective 1/1/85]

[Filed 3/4/85, Notice 1/2/85—published 3/27/85, effective 5/1/85]

[Filed 4/29/85, Notice 10/23/84—published 5/22/85, effective 7/1/85]

- [Filed emergency 7/25/86 after Notice 6/4/86—published 8/13/86, effective 8/1/86]
- [Filed emergency 11/14/86 after Notice 9/24/86—published 12/3/86, effective 12/1/86]
 - [Filed emergency 1/15/87—published 2/11/87, effective 1/15/87]
 - [Filed 3/26/87, Notice 2/11/87—published 4/22/87, effective 6/1/87]
 - [Filed 4/22/88, Notice 3/9/88—published 5/18/88, effective 7/1/88]
 - [Filed 4/13/89, Notice 3/8/89—published 5/3/89, effective 7/1/89]
- [Filed emergency 6/29/89 after Notice 5/3/89—published 7/26/89, effective 7/1/89]
 - [Filed 9/15/89, Notice 7/26/89—published 1/10/90, effective 3/1/90]
 - [Filed emergency 9/17/93—published 10/13/93, effective 10/1/93]
 - [Filed emergency 11/12/93—published 12/8/93, effective 1/1/94]
- [Filed 12/16/93, Notice 10/13/93—published 1/5/94, effective 3/1/94]
 - [Filed 2/10/94, Notice 12/8/93—published 3/2/94, effective 5/1/94]



d. Continued inability on the part of the payee to manage funds for the benefit of the family, but time is needed to secure a protective payee or a conservator or guardian.

43.3(2) Vendor payments shall be authorized subject to the following limitations:

a. Vendor payments shall be authorized only by the local administrator.

b. Vendor payments shall be authorized only with the knowledge and consent of the recipient except in those instances where the vendor payment provision is utilized on an emergency basis to protect the family pending the completion of other arrangements.

c. Vendor payments shall be authorized only to meet emergent situations which limit the recipient's ability to furnish care for children.

d. Vendor payments shall be authorized monthly. When the payments are needed for a period in excess of two months, approval shall be granted by the district income maintenance supervisor or designee.

e. Vendor payments shall be a part of the limitation specified in subrule 43.2(8).

43.3(3) The amount of vendor payment shall be established in the following manner:

a. A vendor payment or payments shall be for a specific item or items of need.

b. The recipient, worker, and vendor shall mutually agree upon the quantity, kinds, and quality of goods or services to be provided and the amount to be paid, except in those instances where the vendor payment is necessary as described in subrule 43.3(1) without the consent of the payee.

c. The entire item of need established in 43.3(3)"a" shall be covered by the vendor payment except in those instances where the family investment program grant is less than the amount needed for the vendor payment. In these instances the amount of the vendor payment shall not exceed the amount of the assistance grant.

d. Before a vendor payment is established, consideration shall be given to the family's entire financial situation so that the vendor payment will not jeopardize the funds needed for the family's other expenses.

e. When a vendor payment is established because of a recipient's failure to participate in the work incentive program, such payment shall be 50 percent or more of the total assistance paid for the month.

f. The balance of the assistance payment not used for the vendor payment shall be paid to the recipient.

43.3(4) The local office shall send the vendor two copies of Form PA-3157-5, Authorization for Vendor Payment. The vendor shall complete and return one copy of the form to the local office along with a copy of the billing, invoice or statement.

441—43.4(239) Emergency payee. Payments may be made to persons acting for relatives who have been receiving assistance for a child in emergency situations that deprive the child of the relatives' care. These payments shall be made for a temporary period, not to exceed three months, to allow time to make and implement plans for the child's continuing care and support.

This rule is intended to implement Iowa Code section 239.5.

441—43.5 to 43.20 Reserved.

DIVISION II
FAMILY INVESTMENT PROGRAM—TREATMENT GROUP
[Prior to 10/13/93, 441—43.1(239) to 43.4(239)]

441—43.21(239) Conservatorship or guardianship.

43.21(1) When application is filed for the family investment program by a person under conservatorship or guardianship, a copy of the court order shall be secured by the local office. Assistance payments shall be made to the conservator or guardian to be allocated for the support and care of the dependent child.

43.21(2) The department may petition the probate court to appoint a conservator over any payee when the department has reason to believe any payments of the family investment program are not being used or may not be used in the best interests of the child. Assistance payments shall be made to the conservator to be allocated for the support and care of the department child(ren).

This rule is intended to implement Iowa Code section 239.5.

441—43.22(239) Protective payments.

43.22(1) Protective payments shall be made to a protective payee when a recipient has demonstrated severe difficulties in managing money, but has the capacity to learn, in a relatively short time, to manage funds in a reasonably adequate manner. Protective payments shall be utilized in the following instances:

- a. When the family investment program payee has clearly demonstrated such inability to manage funds that the needs of the children have not been reasonably served.
- b. Rescinded IAB 12/8/93, effective 1/1/94.
- c. When a parent or other adult fails to cooperate in establishing paternity or securing support without good cause.

43.22(2) Consideration shall be given to the appointment of a protective payee when there is clear and specific evidence that the family investment program payee persistently mismanages the assistance payments to the detriment of the children. This evidence includes, but is not limited to:

- a. Continued refusal or inability to properly feed and clothe the dependent children.
- b. Continued expenditures made for nonessentials or for other items so as to threaten the children's chances for healthy growth and development.
- c. Continued, persistent, and deliberate failure to meet obligations for rent, food, school supplies, or other essentials.
- d. Repeated evictions or incurrence of debts with attachments or levies made against current income.
- e. Continued inability to plan and spread necessary expenditures over the usual period between assistance grants.

43.22(3) The local office has the responsibility for determining whether to recommend a protective payee, in selecting the payee, recommending termination of the arrangement, and providing casework services directed toward increasing money management skills of the recipient.

43.22(4) The selection and appointment of a protective payee shall be in accordance with the following standards.

- a. Interest in and concern with the well-being of the recipient family. This interest may have been demonstrated by regular and frequent visits to the family or past efforts to help the family at time of crisis.
- b. Interest, ability, and the time to help the family to make proper use of the assistance payment in connection with ordinary household budgeting. This ability may have been demonstrated by past experience in purchasing food and clothing and household supplies within a restricted income or other knowledge of effective household money management practices.
- c. Geographical proximity or means of transportation to the family to be accessible for frequent consultation on household budgeting and other household money payment problems.
- d. Ability to establish and maintain positive relationships with members of the family. The protective payee must assume a teaching role to facilitate the acquisition of new money management skills.

e. A responsible, dependable, and reliable individual with the capacity to handle highly confidential family information and to handle money which is vital and essential to another family's daily well-being.

f. Not an individual with a direct or indirect interest in the disposition of the assistance payment, such as the executive officer of the agency, landlord, grocer, or other vendor of goods and services dealing with the recipient.

g. Not an employee of the local office.

43.22(5) The protective payee shall manage or supervise and make basic decisions about the expenditure of the assistance payment. As the recipient demonstrates the ability to use the funds appropriately, the protective payee shall gradually increase self management until the recipient is able to manage the entire assistance payment. The protective payee shall make a quarterly report to the local office of general expenditures and progress being made by the recipient in money management within 30 days following the end of each three-month period.

43.22(6) A protective payment arrangement for persons specified in paragraph 43.22(1) "a" shall be limited to 12 months.

43.22(7) All protective payment arrangements shall be evaluated at least every three months to determine whether the protective payee is carrying out the responsibilities in the best interests of the child or children. In addition, a decision shall be made for each protective payment arrangement for persons specified in paragraph 43.22(1) "a" whether to:

a. Restore the recipient to regular money payment status,

b. Continue the recipient under protective payment status, or

c. Arrange for the appointment of a conservator when it appears that the recipient is unable to respond to the beneficial effects of the protective payment plan or progress is so slow as to require continuation of the plan beyond the time limitation on protective payments.

43.22(8) Protective payments for persons specified in paragraph 43.22(1) "a" shall be limited to 10 percent of the total family investment program caseload.

This rule is intended to implement Iowa Code sections 239.3 and 239.5.

441—43.23(239) Vendor payments.

43.23(1) A vendor payment or payments may be made in an emergency situation when the recipient has become so involved financially that proper care for the family may be secured only with a guarantee of payment from the department. A vendor payment or payments may be made upon the request of the recipient or when the local office determines it is necessary to extricate the family from financial difficulties or to comply with the provisions of the work incentive program. Emergency situations include, but are not limited to:

a. Eviction and inability to find other shelter.

b. Termination of or refusal to provide utilities by the utility company.

c. The necessity to provide such essentials as food, clothing, and shelter for dependent children.

d. Continued inability on the part of the payee to manage funds for the benefit of the family, but time is needed to secure a protective payee or a conservator or guardian.

43.23(2) Vendor payments shall be authorized subject to the following limitations:

a. Vendor payments shall be authorized only by the local administrator.

b. Vendor payments shall be authorized only with the knowledge and consent of the recipient except in those instances where the vendor payment provision is utilized on an emergency basis to protect the family pending the completion of other arrangements.

c. Vendor payments shall be authorized only to meet emergent situations which limit the recipient's ability to furnish care for children.

d. Vendor payments shall be authorized monthly. When the payments are needed for a period in excess of two months, approval shall be granted by the district income maintenance supervisor or designee.

e. Vendor payments shall be a part of the limitation specified in subrule 43.22(8).

43.23(3) The amount of vendor payment shall be established in the following manner:

a. A vendor payment or payments shall be for a specific item or items of need.

b. The recipient, worker, and vendor shall mutually agree upon the quantity, kinds, and quality of goods or services to be provided and the amount to be paid, except in those instances where the vendor payment is necessary as described in subrule 43.23(1) without the consent of the payee.

c. The entire item of need established in 43.23(3)“a” shall be covered by the vendor payment except in those instances where the family investment program grant is less than the amount needed for the vendor payment. In these instances the amount of the vendor payment shall not exceed the amount of the assistance grant.

d. Before a vendor payment is established, consideration shall be given to the family's entire financial situation so that the vendor payment will not jeopardize the funds needed for the family's other expenses.

e. When a vendor payment is established because of a recipient's failure to participate in the work incentive program, such payment shall be 50 percent or more of the total assistance paid for the month.

f. The balance of the assistance payment not used for the vendor payment shall be paid to the recipient.

43.23(4) The local office shall send the vendor two copies of Form PA-3157-5, Authorization for Vendor Payment. The vendor shall complete and return one copy of the form to the local office along with a copy of the billing, invoice or statement.

441—43.24(239) Emergency payee. Payments may be made to persons acting for relatives who have been receiving assistance for a child in emergency situations that deprive the child of the relatives' care. These payments shall be made for a temporary period, not to exceed three months, to allow time to make and implement plans for the child's continuing care and support.

This rule is intended to implement Iowa Code section 239.5.

[Filed 9/29/76, Notice 8/23/76—published 10/20/76, effective 11/24/76]

[Filed without Notice 7/20/77—published 8/10/77, effective 9/14/77]

[Filed 1/4/79, Notice 11/29/78—published 1/24/79, effective 3/1/79]

[Filed emergency 6/30/81—published 7/22/81, effective 7/1/81]

[Filed emergency 5/21/82—published 6/9/82, effective 7/1/82]

[Filed emergency 2/10/84—published 2/29/84, effective 2/10/84]

[Filed emergency 1/15/87—published 2/11/87, effective 1/15/87]

[Filed 4/13/89, Notice 3/8/89—published 5/3/89, effective 7/1/89]

[Filed emergency 6/29/89 after Notice 5/3/89—published 7/26/89, effective 7/1/89]

[Filed 12/15/89, Notice 7/26/89—published 1/10/90, effective 3/1/90]

[Filed 12/13/90, Notice 10/31/90—published 1/9/91, effective 3/1/91]

[Filed emergency 9/17/93—published 10/13/93, effective 10/1/93]

[Filed emergency 11/12/93—published 12/8/93, effective 1/1/94]

[Filed 12/16/93, Notice 10/13/93—published 1/5/94, effective 3/1/94]

[Filed 2/10/94, Notice 12/8/93—published 3/2/94, effective 5/1/94]

CHAPTER 44

Rescinded, effective 10/1/85

DIVISION II
 FAMILY INVESTMENT PROGRAM—TREATMENT GROUP
 [Prior to 10/13/93, 441—49.1(239) to 49.14(239)]

PREAMBLE

As part of the state's welfare reform initiatives, 1988 Iowa Acts, chapters 1276 and 1249, authorized the department to implement a transitional child care assistance program effective October 1, 1988. Aid to dependent children (ADC) recipients who lost their ADC eligibility solely due to an increase in earned income or due to loss of the \$30 or the \$30 plus one-third earned income disregards were eligible to receive 12 months of supplemental child care assistance, regardless of the amount of the family's income.

The Family Support Act of 1988, which was signed by President Reagan on October 13, 1988, authorized a federally funded transitional child care assistance program, which the states were required to implement effective April 1, 1990. 1989 Iowa Acts, chapter 318, required the department to implement this program, effective April 1, 1990.

Although the federal law and regulations preclude eligibility for persons who became ineligible for ADC prior to April 1, 1990, the department transitioned in those persons who were eligible for the state's transitional child care program, using state-only funding.

As part of the state's continuing welfare reform efforts, 1993 Iowa Acts, Senate File 268, as passed by the Seventy-fifth General Assembly, and signed by the governor on May 4, 1993, authorized the department to seek a series of ADC federal waivers which, if approved, would provide a transition to work, encourage family stability, and provide recipients with the opportunity to take personal responsibility to get off welfare. The waivers were approved August 13, 1993, and the changes are being incorporated into 441—Chapter 49 effective October 1, 1993, including an extension of the eligibility period for transitional child care from 12 months to 24 months. The name of the ADC program in Iowa is changed to the family investment program (FIP).

441—49.21(239) Eligibility for transitional child care. A family is eligible for transitional child care when the following conditions are met:

49.21(1) The family must have ceased to be eligible for FIP as a result of increased income from employment.

49.21(2) The family received FIP or a program under Title IV-A of the Social Security Act, including those families not receiving a grant due to being eligible for less than a \$10 grant, in at least three of the six months immediately preceding the first month of ineligibility for assistance. Assistance may have been received in Iowa or in another state.

49.21(3) The family requests transitional child care benefits, provides the information necessary for determining eligibility and copayment, and meets the other requirements of this chapter.

49.21(4) The family ceased to be eligible for FIP on or after April 1, 1990, except for those persons eligible for the previous state-funded program who became ineligible for ADC at some point from October 1, 1988, through March 31, 1990, and who meet the requirements of rule 441—49.34(239).

441—49.22(239) Eligible children. Payment shall be made for a dependent child, or a person who would be a dependent child except for the receipt of Supplemental Security Income. Payment shall also be made for a dependent child living in the home whose needs are met by IV-E foster care. Payment is limited to children who are either under the age of 13, or aged 13 and over who are physically or mentally incapable of self-care, when established in accordance with 41.21(5) "c," or under court supervision. A dependent child is a person who is deprived as specified in subrule 41.21(5) or rule 441—42.22(239) and who meets the age and school attendance requirements specified in subrule 41.21(1) and who is living in the same home as the caretaker relative. A child is no longer dependent when the child marries unless the marriage is annulled. A child who has been divorced is still considered an adult.

441—49.23(239) Child care facilities eligible to participate. Except as specified in the next paragraph, only licensed child care centers as specified at 441—Chapter 109 and registered family and group day care homes as specified at 441—Chapter 110 shall be eligible to participate in the transitional child care assistance program. The income maintenance worker shall verify that a compliance check of the registered facility has been completed by the service unit within the past 12 months at the time eligibility for transitional child care assistance begins or when the client changes providers.

Eligible child care providers include child care programs which are administered by a public or nonpublic school system, approved or accredited by the department of education or the state board of regents.

441—49.24(239) Effective date of eligibility. Regardless of when a family requests transitional child care assistance, eligibility for transitional child care begins with the first month for which the family is ineligible for assistance in accordance with rule 441—49.21(239) and continues for a period of 24 consecutive months. Families may begin to receive child care assistance in any month during the 24-month eligibility period. Entitlement for retroactive transitional child care assistance exists for the entire 24-month period regardless of when the family requests benefits from the program.

441—49.25(239) Reasons for ineligibility for transitional child care assistance. In all of the following situations, if the family reestablishes eligibility for FIP during the 24-month period, the family is entitled to a new 24-month period if the family again becomes ineligible for FIP due to earned income and otherwise meets the eligibility requirements of this chapter.

49.25(1) The family is not eligible for transitional child care assistance for any remaining portion of the 24-month period beginning with the month after the caretaker relative, without identified problems with participation of a temporary or incidental nature as described at rule 441—93.133(249C) or barriers to participation as described at rule 441—93.134(249C), terminated employment which would have caused or did cause ineligibility for FIP.

49.25(2) The family is not eligible for transitional child care assistance for any remaining portion of the 24-month period beginning with the month after the caretaker relative, without good cause, fails to cooperate with the child support recovery unit, as required at 441—subrule 41.22(6), in establishing payments and enforcing child support obligations, prior to the cancellation of FIP.

49.25(3) If the caretaker relative loses a job with identified problems with participation of a temporary or incidental nature as described at rule 441—93.133(249C) or barriers to participation as described at rule 441—93.134(249C), and then finds another job, the family can qualify for the remaining portion of the 24-month eligibility period.

441—49.26(239) Income. Income shall be determined in accordance with 441—subrule 130.3(3) except supplemental security income, state supplementary assistance, and IV-E foster care payments shall be exempt. Income shall be calculated prospectively. When monthly income fluctuates, an average of the income for at least three months, but no more than the past six months, shall be used. When income begins, the best estimate of the prospective income to be received in the first three months shall be used. The client shall be required to verify income to determine initial eligibility, at the time of the annual review, and at the time a change in income is reported. When determining income and family size, household composition shall be determined in accordance with rule 441—130.1(234) and subrule 130.3(5).

441—49.27(239) Copayments. The income limits and fee schedule specified at 441—subrules 130.3(1) and 130.4(3) shall be used to determine the amount of copayment required of the client with two exceptions.

49.27(1) When the client's income exceeds the income limits specified at 441—subrule 130.3(1), eligibility shall continue with the client paying the maximum copayment specified at 441—subrule 130.4(3).

49.27(2) When the client's income is so low that no copayment would normally be required as specified at 441—subrule 130.4(3), the client shall be required to pay a copayment of 4 cents a day, 2 cents a half day and 1 cent an hour, depending on the child care needed.

441—49.28(239) Copayment requirement. Each family receiving transitional child care assistance shall pay the copayment amount determined in rule 441—49.27(239) as a condition of eligibility for the program. Each month the client's child care provider shall verify on Form 470-2476, Transitional Child Care Voucher Payment, as to whether the client has made the required copayment, or has made arrangements to make the required copayment, for the prior month. If a family does not cooperate in paying its fee, it shall become ineligible for continued transitional benefits, and it shall remain ineligible for so long as back fees are owed, unless satisfactory arrangements are made to make full payment.

Caretaker relatives who fail to cooperate in paying required fees shall lose eligibility for transitional child care assistance for so long as back fees are owed, unless satisfactory arrangements are made with the provider to make full payment. In this instance, cancellation of transitional child care assistance is subject to the timely notice and appeal requirements specified in 441—Chapter 7.

441—49.29(239) Billing procedures.

49.29(1) The client and the provider shall be required to complete Form 470-2475, Transitional Child Care Voucher Payment Agreement, to determine initial eligibility, at the time of the annual review, and at the time a change is reported. Transitional child care shall not be continued without completion of the form.

49.29(2) The provider shall submit Form 470-2476, Transitional Child Care Voucher Payment, to the local office monthly.

49.29(3) Providers shall bill the department in the amount that is assessed, less the client copayment. The amount that is assessed shall be based on the units of service as specified at 441—130.4(3) "a," and shall be determined in accordance with 441—subrule 130.4(3) and rule 441—49.27(239). The program shall contribute to payment for days of absence not to exceed four days per child per calendar month. The provider shall agree not to collect any fee from the client other than the assessed copayment determined in accordance with these rules.

49.29(4) Payment for transitional child care shall begin in the month that the client returns the signed Form 470-2475 or the month the provider becomes licensed or registered, whichever is later. However, once the signed form is returned or the provider becomes licensed or registered, payment shall be made retroactively for any past months of the 24 months in which child care costs were incurred and the client was otherwise eligible.

441—49.30(239) Payment.

49.30(1) The rate of payment to the provider shall not exceed the amount specified for the PROMISE JOBS program in accordance with 441—Chapter 93, Division II.

49.30(2) The rate of payment shall be no more than the provider charges a private individual or that the provider charges under state day care arrangements.

49.30(3) Payment will be made only for care which covers the actual hours of the individual's employment plus a reasonable time commuting or the period of time when the individual is sleeping because the individual's hours of employment require the individual to sleep during the waking hours of the child.

49.30(4) In two-parent households payment will be made for care only if it can be documented that the other parent is unable to provide care or the other parent is employed, in school, or participating in an employment or training program during the hours care is needed.

441—49.31(239) Termination of eligibility. In addition to the reasons specified in rules 441—49.25(239) and 441—49.28(239), transitional child care assistance shall also be terminated when one of the following conditions exists. The client:

1. Is eligible for FIP, if an application is filed.
2. Is no longer employed.
3. Has received transitional child care assistance for 24 consecutive months.
4. Is no longer a resident of Iowa.

441—49.32(239) Notification and appeals. Before action can be taken to terminate transitional child care assistance or to increase the amount of the client copayment, timely and adequate notice must be issued in accordance with 441—Chapter 7. When the client requests a hearing within the timely notice period as defined at rule 441—7.1(217), transitional child care assistance shall be continued no longer than through the end of the certification period pending a decision on the appeal.

441—49.33(239) Overpayments and recovery. Clients and providers who receive incorrect payments from the transitional child care assistance program shall have the overpayments recovered in the same manner as specified for the recovery of excess child care payments for the PROMISE JOBS program, described in 441—Chapter 93.

441—49.34(239) Families transitioned from the state-funded transitional child care assistance program. As stated at subrule 49.21(4), persons receiving transitional child care assistance through the state-funded program that was in existence from October 1, 1988, through March 31, 1990, are transitioned into the federally funded program except that the costs of these families' assistance shall be met with state funding. All of the provisions of this revised chapter apply to the transitioned families except as specified as follows:

49.34(1) The provisions in subrules 49.21(1) and 49.21(2).

49.34(2) All provisions for rule 441—49.24(239) apply except that there is no eligibility for retroactive months of transitional child care assistance for any month prior to April 1990.

49.34(3) All provisions of subrules 49.25(1) and 49.25(2) apply except that no period of ineligibility shall be applied to persons in the transitioned group who quit a job without good cause or who failed to cooperate with child support recovery prior to April 1, 1990. The period of ineligibility shall be applied to persons who quit a job, without good cause, or failed to cooperate with child support recovery on or after April 1, 1990.

49.34(4) All provisions of subrule 49.29(4) apply except that there is no eligibility for retroactive months of transitional child care assistance for any month prior to April 1990.

Overpayments caused by client or provider misrepresentation which occurred for any month from October 1, 1988, through March 31, 1990, under the state-funded transitional child care assistance shall be recovered, in accordance with rule 441—49.33(239).

These rules are intended to implement Iowa Code section 239.21 and 1990 Iowa Acts, chapter 1270, section 7.

[Filed emergency 9/2/88 after Notice 7/13/88—published 9/21/88, effective 10/1/88]

[Filed without Notice 1/16/90—published 2/7/90, effective 4/1/90]

[Filed 3/16/90, Notice 2/7/90—published 4/4/90, effective 6/1/90]

[Filed emergency 3/14/91 after Notice 2/6/91—published 4/3/91, effective 4/1/91]

[Filed 4/11/91, Notice 2/20/91—published 5/1/91, effective 7/1/91]

[Filed 12/11/91, Notice 10/16/91—published 1/8/92, effective 3/1/92]

[Filed 12/11/91, Notice 10/30/91—published 1/8/92, effective 3/1/92]*

[Filed emergency 4/15/92—published 5/13/92, effective 4/16/92]

[Filed emergency 9/17/93—published 10/13/93, effective 10/1/93]

[Filed emergency 11/12/93—published 12/8/93, effective 1/1/94]

[Filed 12/16/93, Notice 10/13/93—published 1/5/94, effective 3/1/94]

[Filed 2/10/94, Notice 12/8/93—published 3/2/94, effective 5/1/94]

*Effective date of 3/1/92 delayed until adjournment of the 1992 General Assembly by the Administrative Rules Review Committee at its meeting held February 3, 1992.

**CHAPTER 51
ELIGIBILITY**

[Prior to 7/1/83, Social Services(770), Ch 51]
[Prior to 2/11/87, Human Services(498)]

441—51.1(249) Application for other benefits. An applicant or any other person whose needs are included in determining the state supplementary assistance payment must have applied for or be receiving all other benefits, including supplemental security income or aid to dependent children, for which the person may be eligible. The person must cooperate in the eligibility procedures while making application for the other benefits. Failure to cooperate shall result in ineligibility for state supplementary assistance.

This rule is intended to implement Iowa Code section 249.3.

441—51.2(249) Supplementation. Any supplemental payment made on behalf of the recipient from any source other than a nonfederal governmental entity shall be considered as income, and the payment shall be used to reduce the state supplementary assistance payment.

441—51.3(249) Eligibility for residential care.

51.3(1) Licensed facility. Payment for residential care shall be made only when the facility in which the applicant or recipient is residing is currently licensed by the department of inspections and appeals pursuant to laws governing health care facilities.

51.3(2) Physician's statement. Payment for residential care shall be made only when there is on file an order written by a physician certifying that the applicant or recipient being admitted requires residential care but does not require nursing services. The certification shall be updated whenever a change in the recipient's physical condition warrants reevaluation, but no less than every 12 months.

51.3(3) Income eligibility. The resident shall be income eligible when the income according to 52.1(3)"a" is less than 31 times the per diem rate of the facility. Partners in a marriage who both enter the same room of the residential care facility in the same month shall be income eligible for the initial month when their combined income according to 52.1(3)"a" is less than twice the amount of allowed income for one person (31 times the per diem rate of the facility).

51.3(4) Diversion of income. Rescinded IAB 5/1/91, effective 7/1/91.

51.3(5) Resources. Rescinded IAB 5/1/91, effective 7/1/91.

This rule is intended to implement Iowa Code section 249.3.

441—51.4(249) Dependent relatives.

51.4(1) Income. Income of a dependent relative shall be less than \$223. When the dependent's income is from earnings, an exemption of \$65 shall be allowed to cover work expense.

51.4(2) Resources. The resource limitation for a recipient and a dependent child or parent shall be \$2,000. The resource limitation for a recipient and a dependent spouse shall be \$3,000. The resource limitation for a recipient, spouse, and dependent child or parent shall be \$3,000.

51.4(3) Living in the home. A dependent relative shall be eligible until out of the recipient's home for a full calendar month starting at 12:01 a.m. on the first day of the month until 12:00 midnight on the last day of the same month.

51.4(4) Dependency. A dependent relative may be the recipient's ineligible spouse, parent, child, or adult child who is financially dependent upon the recipient. A relative shall not be considered to be financially dependent upon the recipient when the relative is living with a spouse who is not the recipient.

This rule is intended to implement Iowa Code sections 249.3 and 249.4.

441—51.5(249) Residence. A recipient of state supplementary assistance shall be living in the state of Iowa.

This rule is intended to implement Iowa Code section 249.3.

441—51.6(249) Lump sum payment. Rescinded IAB 3/4/92, effective 5/1/92.

441—51.7(249) Income from providing room and board. In determining profit from furnishing room and board or providing family life home care, \$223 per month shall be deducted to cover the cost, and the remaining amount treated as earned income.

This rule is intended to implement Iowa Code sections 249.3 and 249.4.

441—51.8(249) Furnishing of social security number. As a condition of eligibility applicants or recipients of state supplementary assistance must furnish their social security account numbers or proof of application for the numbers if they have not been issued or are not known and provide their numbers upon receipt.

Assistance shall not be denied, delayed, or discontinued pending the issuance or verification of the numbers when the applicants or recipients are cooperating in providing information necessary for issuance of their social security numbers.

This rule is intended to implement Iowa Code sections 249.3 and 249.4.

441—51.9(249) Recovery.

51.9(1) Definitions.

“Administrative overpayment” means assistance incorrectly paid to or for the client because of continuing assistance during the appeal process.

“Agency error” means assistance incorrectly paid to or for the client because of action attributed to the department as the result of one or more of the following circumstances:

1. Misfiling or loss of forms or documents.
2. Errors in typing or copying.
3. Computer input errors.
4. Mathematical errors.
5. Failure to determine eligibility correctly or to certify assistance in the correct amount when all essential information was available to the local office.
6. Failure to make prompt revisions in payment following changes in policies requiring the changes as of a specific date.

“Client” means a current or former applicant or recipient of state supplementary assistance.

“Client error” means assistance incorrectly paid to or for the client because the client or client’s representative failed to disclose information, or gave false or misleading statements, oral or written, regarding the client’s income, resources, or other eligibility and benefit factors. It also means assistance incorrectly paid to or for the client because of failure by the client or client’s representative to timely report as defined in rule 441—76.10(249A).

“Department” means the department of human services.

51.9(2) Amount subject to recovery. The department shall recover from a client all state supplementary assistance funds incorrectly expended to or on behalf of the client, or when conditional benefits have been granted.

a. The department also shall seek to recover the state supplementary assistance granted during the period of time that conditional benefits were correctly granted the client under the policies of the supplemental security income program.

b. The incorrect expenditures may result from client or agency error, or administrative overpayment.

51.9(3) Notification. All clients shall be promptly notified when it is determined that assistance was incorrectly expended. Notification shall include for whom assistance was paid, the

time period during which assistance was incorrectly paid; the amount of assistance subject to recovery, when known; and the reason for the incorrect expenditure.

51.9(4) Source of recovery. Recovery shall be made from the client or from parents of children under the age of 21 when the parents completed the application and had responsibility for reporting changes. Recovery must come from income, resources, the estate, income tax refunds, and lottery winnings of the client.

51.9(5) Repayment. The repayment of incorrectly expended state supplementary assistance funds shall be made to the department.

51.9(6) Appeals. The client shall have the right to appeal the amount of funds subject to recovery under the provisions of 441—Chapter 7.

This rule is intended to implement Iowa Code sections 249.3 and 249.4.

[Filed 2/19/76, Notice 1/12/76—published 3/8/76, effective 4/12/76]

[Filed 6/25/76, Notice 5/17/76—published 7/12/76, effective 8/16/76]

[Filed 12/17/76, Notice 11/3/76—published 1/12/77, effective 3/1/77]

[Filed emergency 5/24/77—published 6/15/77, effective 7/1/77]

[Filed 3/27/78, Notice 2/8/78—published 4/19/78, effective 5/24/78]

[Filed emergency 6/28/78—published 7/26/78, effective 7/1/78]

[Filed 7/17/78, Notice 5/31/78—published 8/9/78, effective 9/13/78]

[Filed emergency 6/26/79—published 7/25/79, effective 7/1/79]

[Filed emergency 6/30/80—published 7/23/80, effective 7/1/80]

[Filed emergency 6/30/81—published 7/22/81, effective 7/1/81]

[Filed 6/30/81, Notice 4/29/81—published 7/22/81, effective 9/1/81]

[Filed 10/23/81, Notice 9/2/81—published 11/11/81, effective 1/1/82]

[Filed 11/20/81, Notice 9/30/81—published 12/9/81, effective 2/1/82]

[Filed emergency 9/23/82—published 10/13/82, effective 9/23/82]

[Filed emergency 6/17/83—published 7/6/83, effective 7/1/83]

[Filed emergency 11/18/83, after Notice 10/12/83—
published 12/7/83, effective 1/1/84]

[Filed emergency 12/11/84—published 1/2/85, effective 1/1/85]

[Filed without notice 1/22/85—published 2/13/85, effective 4/1/85]

[Filed 3/22/85, Notice 2/13/85—published 4/10/85, effective 6/1/85]

[Filed emergency 12/2/85—published 12/18/85, effective 1/1/86]

[Filed 4/29/86, Notice 3/12/86—published 5/21/86, effective 8/1/86]

[Filed emergency 12/22/86—published 1/14/87, effective 1/1/87]

[Filed emergency 1/15/87—published 2/11/87, effective 1/15/87]

[Filed emergency 12/10/87—published 12/30/87, effective 1/1/88]

[Filed emergency 12/8/88—published 12/28/88, effective 1/1/89]

[Filed emergency 11/16/89—published 12/13/89, effective 1/1/90]

[Filed 2/16/90, Notice 12/13/89—published 3/7/90, effective 5/1/90]

[Filed emergency 12/13/90—published 1/9/91, effective 1/1/91]

[Filed 12/13/90, Notice 10/31/90—published 1/9/91, effective 3/1/91]

[Filed 2/14/91, Notice 1/9/91—published 3/6/91, effective 5/1/91]

[Filed 4/11/91, Notice 3/6/91—published 5/1/91, effective 7/1/91]

[Filed emergency 12/11/91—published 1/8/92, effective 1/1/92]

[Filed 2/13/92, Notices 12/25/91, 1/8/92—published 3/4/92, effective 5/1/92]

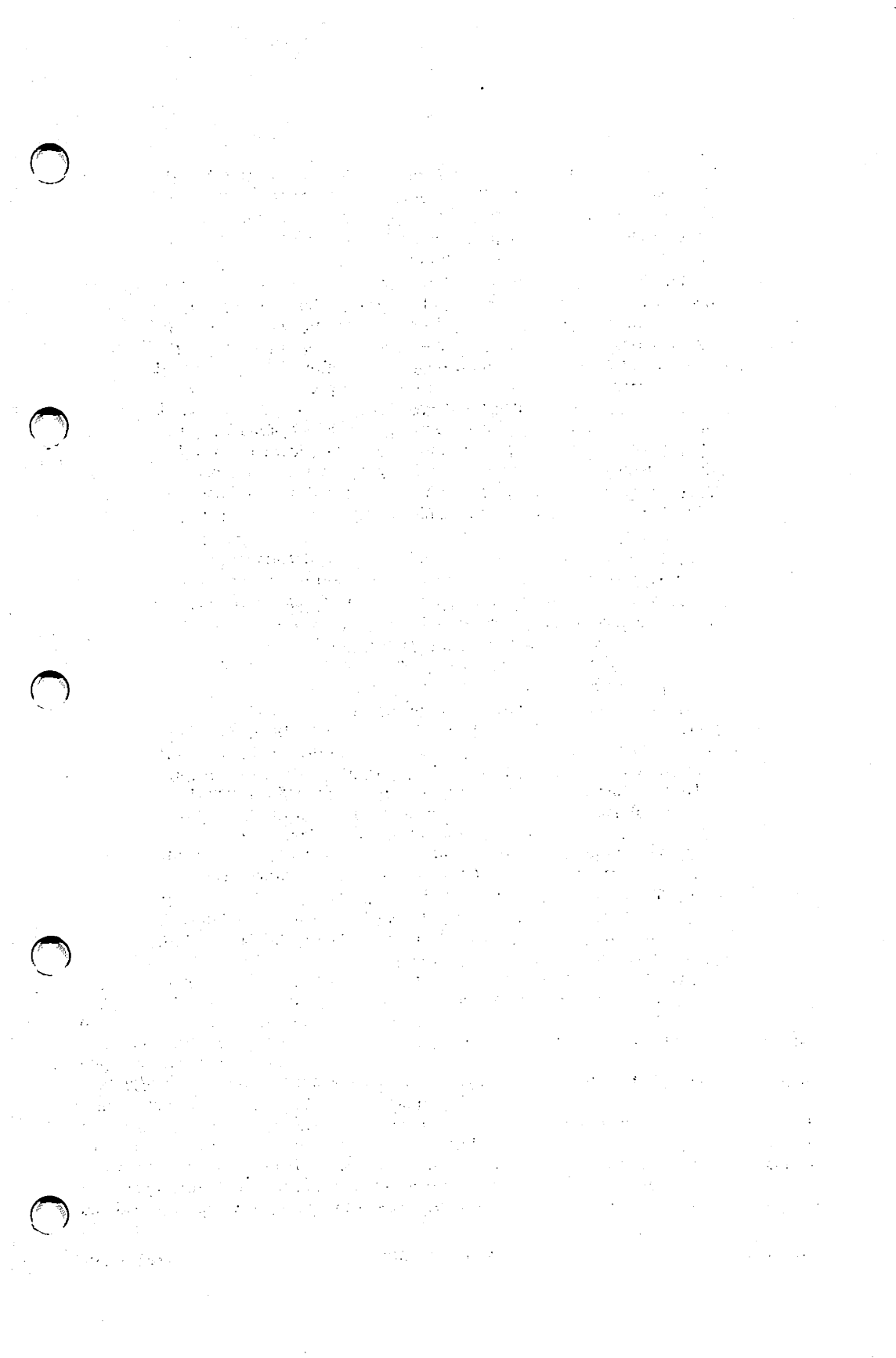
[Filed emergency 12/1/92—published 12/23/92, effective 1/1/93]

[Filed 2/10/93, Notice 12/23/92—published 3/3/93, effective 5/1/93]

[Filed emergency 12/16/93—published 1/5/94, effective 1/1/94]

[Filed 12/16/93, Notice 10/27/93—published 1/5/94, effective 3/1/94]

[Filed 2/10/94, Notice 1/5/94—published 3/2/94, effective 5/1/94]



CHAPTER 52
PAYMENT

[Prior to 7/1/83, Social Services(770), Ch 52]
[Prior to 2/11/87, Human Services(498)]

441—52.1(249) Assistance standards. Assistance standards are the amounts of money allowed on a monthly basis to recipients of state supplementary assistance in determining financial need and the amount of assistance granted.

52.1(1) Protective living arrangement. The following assistance standards have been established for state supplementary assistance for persons living in a protective living arrangement:

Family life home certified under rules in 441—Chapter 111.

\$465.20	care allowance
<u>63.00</u>	personal allowance
\$528.20	Total

52.1(2) Dependent relative. The following assistance standards have been established for state supplementary assistance for dependent relatives residing in a recipient's home.

- a. Aged or disabled client and a dependent relative \$669
- b. Aged or disabled client, eligible spouse, and a dependent relative \$892
- c. Blind client and a dependent relative \$691
- d. Blind client, aged or disabled spouse and a dependent relative \$914
- e. Blind client, blind spouse and a dependent relative \$936

52.1(3) Residential care. Payment to a recipient in a residential care facility shall be made on a flat per diem rate of \$14.17 or on a cost-related reimbursement system with a maximum reimbursement per diem rate of \$19.82. A cost-related per diem rate shall be established for each facility choosing this method of payment according to rule 441—54.3(249).

The facility shall accept the per diem rate established by the department for state supplementary assistance recipients as payment in full from the recipient and make no additional charges to the recipient.

a. All income of a recipient as described in this subrule after the disregards described in this subrule shall be applied to meet the cost of care before payment is made through the state supplementary assistance program.

Income applied to meet the cost of care shall be the income considered available to the resident pursuant to supplemental security income (SSI) policy plus the SSI benefit less the following monthly disregards applied in the order specified:

(1) When income is earned, impairment related work expenses, as defined by SSI plus \$65 plus one-half of any remaining earned income.

(2) Effective January 1, 1994, a \$63 allowance to meet personal expenses and Medicaid copayment expenses.

(3) When there is a spouse at home, the amount of the SSI benefit for an individual minus the spouse's countable income according to SSI policies. When the spouse at home has been determined eligible for SSI benefits, no income disregard shall be made.

(4) When there is a dependent child living with the spouse at home who meets the definition of a dependent according to the SSI program, the amount of the SSI allowance for a dependent minus the dependent's countable income and the amount of income from the parent at home that exceeds the SSI benefit for one according to SSI policies.

(5) Established unmet medical needs of the resident, excluding private health insurance premiums and Medicaid copayment expenses. Unmet medical needs of the spouse at home, exclusive of health insurance premiums and Medicaid copayment expenses, shall be an additional deduction when the countable income of the spouse at home is not sufficient to cover those expenses. Unmet medical needs of the dependent living with the spouse at home, exclusive of health insurance premiums and Medicaid copayment expenses, shall also be deducted when the countable income of the dependent and the income of the parent at home that exceeds the SSI benefit for one is not sufficient to cover the expenses.

(6) The income of recipients of state supplementary assistance or Medicaid needed to pay the cost of care in another residential care facility, a family life home, an in-home health related care provider, a home and community based waiver setting, or a medical institution is not available to apply to the cost of care. The income of a resident who lived at home in the month of entry shall not be applied to the cost of care except to the extent the income exceeds the SSI benefit for one person or for a married couple if the resident also had a spouse living in the home in the month of entry.

b. Payment is made for only the days the recipient is a resident of the facility. Payment shall be made for the date of entry into the facility, but not the date of death or discharge.

c. Payment shall be made in the form of a grant to the recipient on a post payment basis.

d. Payment shall not be made when income is sufficient to pay the cost of care in a month with less than 31 days, but the recipient shall remain eligible for all other benefits of the program.

e. Payment will be made for periods the resident is absent overnight for the purpose of visitation or vacation. The facility will be paid to hold the bed for a period not to exceed 30 days during any calendar year, unless a family member or legal guardian of the resident, the resident's physician, case manager, or department service worker provide signed documentation that additional visitation days are desired by the resident and are for the benefit of the resident. This documentation shall be obtained by the facility for each period of paid absence which exceeds the 30-day annual limit. This information shall be retained in the resident's personal file. If documentation is not available to justify periods of absence in excess of the 30-day annual limit, the facility shall submit a Case Activity Report, Form AA-4166-0, to the county office of the department to terminate the state supplementary assistance payment.

A family member may contribute to the cost of care for a resident subject to supplementation provisions at rule 441—51.2(249) and any contributions shall be reported to the county office of the department by the facility.

f. Payment will be made for a period not to exceed ten days in any calendar month when the resident is absent due to hospitalization. Payment will not be authorized for over ten days for any continuous hospital stay whether or not the stay extends into a succeeding month or months.

g. The per diem rate established for recipients of state supplementary assistance shall not exceed the average rate established by the facility for private pay residents.

(1) Residents placed in a facility by another governmental agency are not considered private paying individuals. Payments received by the facility from such an agency shall not be included in determining the average rate for private paying residents.

(2) To compute the facility-wide average rate for private paying residents, the facility shall accumulate total monthly charges for those individuals over a six-month period and divide by the total patient days care provided to this group during the same period of time.

52.1(4) *Blind.* The standard for a blind recipient not receiving another type of state supplementary assistance is \$22 per month.

52.1(5) *In-home health related care.* Payment to a person receiving in-home health related care shall be made in accordance with rules in 441—Chapter 177.

52.1(6) *Minimum income level cases.* The income level of those persons receiving old age assistance, aid to the blind, and aid to the disabled in December 1973 shall be maintained at the December 1973 level as long as the recipient's circumstances remain unchanged and that income level is above current standards. In determining the continuing eligibility for the minimum income level, the income limits, resource limits, and exclusions which were in effect in October 1972 shall be utilized.

This rule is intended to implement Iowa Code sections 234.6, 234.38, 249.2, 249.3, 249.4, and 249A.4.

[Filed 2/19/76, Notice 1/12/76—published 3/8/76, effective 4/12/76]

[Filed emergency 6/9/76—published 6/28/76, effective 7/1/76]

[Filed emergency 7/29/76—published 8/23/76, effective 9/1/76]

- [Filed 9/29/76, Notice 8/23/76—published 10/20/76, effective 11/24/76]
- [Filed 12/17/76, Notice 11/3/76—published 1/12/77, effective 3/1/77]
 - [Filed emergency 5/24/77—published 6/15/77, effective 7/1/77]
- [Filed 3/27/78, Notice 2/8/78—published 4/19/78, effective 5/24/78]
 - [Filed emergency 5/8/78—published 5/31/78, effective 5/24/78]
 - [Filed emergency 6/28/78—published 7/26/78, effective 7/1/78]
- [Filed 7/17/78, Notice 5/31/78—published 8/9/78, effective 9/13/78]
- [Filed 11/7/78, Notice 4/19/78—published 11/29/78, effective 1/3/79]
 - [Filed emergency 6/26/79—published 7/25/79, effective 7/1/79]
 - [Filed emergency 6/30/80—published 7/23/80, effective 7/1/80]
 - [Filed emergency 6/30/81—published 7/22/81, effective 7/1/81]
- [Filed 2/26/82, Notice 10/28/81—published 3/17/82, effective 5/1/82]
 - [Filed emergency 5/21/82—published 6/9/82, effective 7/1/82]
 - [Filed emergency 7/1/82—published 7/21/82, effective 7/1/82]
- [Filed 2/25/83, Notice 1/5/83—published 3/16/83, effective 5/1/83]
 - [Filed emergency 6/17/83—published 7/6/83, effective 7/1/83]
 - [Filed emergency 10/7/83—published 10/26/83, effective 11/1/83]
- [Filed without Notice 10/7/83—published 10/26/83, effective 12/1/83]
- [Filed emergency 11/18/83, after Notice 10/12/83—published 12/7/83, effective 1/1/84]
- [Filed 11/18/83, Notice 10/12/83—published 12/7/83, effective 2/1/84]
 - [Filed emergency 6/15/84—published 7/4/84, effective 7/1/84]
 - [Filed emergency 12/11/84—published 1/2/85, effective 1/1/85]
 - [Filed emergency 6/14/85—published 7/3/85, effective 7/1/85]
- [Filed emergency after Notice 6/14/85, Notice 5/8/85—published 7/3/85, effective 8/1/85]
 - [Filed emergency 10/1/85—published 10/23/85, effective 11/1/85]
- [Filed without Notice 10/1/85—published 10/23/85, effective 12/1/85]
- [Filed emergency 12/2/85—published 12/18/85, effective 1/1/86]
- [Filed 12/2/85, Notice 10/23/85—published 12/18/85, effective 2/1/86]
 - [Filed emergency 6/26/86—published 7/16/86, effective 7/1/86]
 - [Filed emergency 12/22/86—published 1/14/87, effective 1/1/87]
 - [Filed emergency 1/15/87—published 2/11/87, effective 1/15/87]
 - [Filed emergency 12/10/87—published 12/30/87, effective 1/1/88]
 - [Filed emergency 6/9/88—published 6/29/88, effective 7/1/88]
 - [Filed emergency 12/8/88—published 12/28/88, effective 1/1/89]
 - [Filed emergency 6/9/89—published 6/28/89, effective 7/1/89]
- [Filed 8/17/89, Notice 6/28/89—published 9/6/89, effective 11/1/89]
 - [Filed emergency 11/16/89—published 12/13/89, effective 1/1/90]
- [Filed 2/16/90, Notice 12/13/89—published 3/7/90, effective 5/1/90]
 - [Filed emergency 6/20/90—published 7/11/90, effective 7/1/90]
- [Filed 8/16/90, Notice 7/11/90—published 9/5/90, effective 11/1/90]
 - [Filed emergency 12/13/90—published 1/9/91, effective 1/1/91]
- [Filed 12/13/90, Notice 10/31/90—published 1/9/91, effective 3/1/91]
 - [Filed 2/14/91, Notice 1/9/91—published 3/6/91, effective 5/1/91]
 - [Filed 4/11/91, Notice 3/6/91—published 5/1/91, effective 7/1/91]

- [Filed 9/18/91, Notice 7/24/91—published 10/16/91, effective 12/1/91]
[Filed emergency 12/11/91—published 1/8/92, effective 1/1/92]
- [Filed 12/11/91, Notice 10/16/91—published 1/8/92, effective 3/1/92]*
[Filed 2/13/92, Notice 1/8/92—published 3/4/92, effective 5/1/92]
[Filed emergency 4/15/92—published 5/13/92, effective 4/16/92]
- [Filed 4/16/92, Notice 1/8/92—published 5/13/92, effective 7/1/92]
[Filed emergency 12/1/92—published 12/23/92, effective 1/1/93]
- [Filed 2/10/93, Notice 12/23/92—published 3/3/93, effective 5/1/93]
[Filed emergency 6/11/93—published 7/7/93, effective 7/1/93]
- [Filed 8/12/93, Notice 7/7/93—published 9/1/93, effective 11/1/93]
[Filed emergency 12/16/93—published 1/5/94, effective 1/1/94]
- [Filed 12/16/93, Notice 10/27/93—published 1/5/94, effective 3/1/94]
[Filed 2/10/94, Notice 1/5/94—published 3/2/94, effective 5/1/94]

CHAPTER 53

[Ch 53, IDR 1973, renumbered as (770) Ch 7]

Reserved

are living on their own but who have been living, within the six months prior to applying for the program, with a relative as defined at 41.22(3)"a," provided an emergency exists. The program is operated statewide and is funded on a fiscal-year basis (from July through June). When funds are expended prior to the end of the fiscal year, the program will be discontinued until funding is received for the next fiscal year in accordance with rule 441—58.30(234). Emergency assistance is not intended as a substitute for regular assistance grants from an ongoing program but is intended to be the program of last resort when no other sources of assistance are available. Emergency assistance shall also be provided for that portion of an emergency need not covered by benefits from other programs due to those programs' limitations.

441—58.23(234) Application procedures.

58.3(1) Date of application. The date of application shall be determined by the date a signed Form 470-2762, Emergency Assistance Application, is received in any local or area office or by an income maintenance worker in any satellite office. The county office shall conduct at least one face-to-face interview prior to approval of the application. The face-to-face interview may be held in the county office or in the applicant's home. The applicant may appoint an authorized representative to attend the interview if the applicant is unable to attend. The authorized representative must be a person knowledgeable of the household's circumstances. When it is impossible to hold a face-to-face interview within the ten-day time frame for processing applications as described at 58.23(2), the face-to-face interview may be waived by the county office and a telephone conference held instead.

The household's declaration shall be accepted except when verification is required by these rules or information appears questionable. The decision with respect to eligibility shall be based largely on information provided by the household.

58.23(2) Time limits. Applications shall be processed within ten calendar days from the date of receipt to resolve the household's emergency. The ten-day time standard for approval shall apply except in unusual circumstances, such as when the department and the household have made every reasonable effort to secure necessary information which has not been supplied by the date the time limit expires; or because of emergency situations, such as fire, flood or other conditions beyond the administrative control of the department.

58.23(3) Additional information required. When additional information or verification is required, the household shall be requested in writing to provide that information within five calendar days. The written request shall also inform the household that failure to provide the required information within five calendar days or failure to authorize the local office to secure the information from other sources will result in denial of the application. The five-day period begins the day after the date the local office issues the written request.

The five-day time limit to provide additional information shall be extended if the household is unable to obtain the information by the requested date due to circumstances beyond the household's control, such as illness, or the source who is to provide the verification causes a delay, or due to emergencies like fire, flood, etc.

58.23(4) Basis for decision on application. The decision with respect to eligibility for emergency assistance shall be made based on the household's circumstances as they exist on the date of the interview.

441—58.24(234) Eligibility requirements. A household, including a migrant household, shall be eligible for emergency assistance when the following conditions are met:

58.24(1) Existence of an emergency. An emergency shall exist, limited to eviction, foreclosure, utility shutoff, fuel shortage, loss of heating energy supply or equipment, or homelessness. An emergency also exists when there is a potential for eviction, foreclosure, utility shutoff, fuel shortage, loss of heating energy supply or equipment or homelessness.

The household shall be required to provide proof that an emergency exists.

58.24(2) Income and resources. The household's available income and resources shall be within the limits as defined at rules 441—58.26(234) and 441—58.27(234).

58.24(3) Receipt of assistance. The household shall not have received assistance in Iowa from the program within one year prior to the date the first payment is authorized. The 12-month period begins on the date the first payment is approved. If any household member received emergency assistance within the past 12 months, the entire household is ineligible.

58.24(4) Child in household. The household shall contain at least one child who is living with the household.

58.24(5) Child in need. To be considered in need, the child shall be destitute or be without living arrangements unless assistance is provided. The child is not in destitution or need if a child aged 16 or older, who is not attending elementary, secondary or the equivalent level of vocational or technical school full-time, or another member of the household, without identified problems with participation of a temporary or incidental nature as described at rule 441—93.133(249C) or barriers to participation as described at rule 441—93.134(249C), in the 30 days prior to approval for emergency assistance:

- a. Refused a job offer or training for employment.
- b. Was dismissed from a job due to the member's own actions.
- c. Quit employment.
- d. Reduced earnings.

58.24(6) Application for other benefits. The household shall apply for and accept benefits for which the household may be qualified from the energy assistance, county general relief and veteran's affairs programs before approval for emergency assistance.

58.24(7) Citizenship and alienage. The household shall contain at least one child who meets citizenship and alienage requirements as defined at subrule 41.23(4).

441—58.25(234) Determination of need. Needs covered are limited to rent payments, house payments, rent and utility deposits, utilities, and purchase or repair of heating equipment. Utilities shall include heat (electric, gas, fuel oil, wood, etc.), lights, water, sewer, garbage, but shall not include phone. Heating equipment shall include, but is not limited to, furnace, space heater, kerosene heater, wood stove, etc. Air conditioners shall not be funded.

441—58.26(234) Income. The household's nonexempt gross income, with the exception of the deductions specified at subrule 58.26(2), shall not exceed 100 percent of the poverty level of the Office of Management and Budget (OMB). Changes in OMB's poverty guidelines shall go into effect the second month after the changes are published. When determining income and household size, the household shall be determined as defined in rule 441—58.21(234). All income reported by the household shall be verified.

58.26(1) Income considered. Income considered shall include, but is not limited to, all gross income received or reasonably anticipated to be received by the household in the month of application, such as the family investment program (FIP) grant, veteran's pension, social security benefits, supplemental security income (SSI), job insurance benefits, child support income, alimony, workers' compensation benefits, retroactive payments from any source, lump-sum income, earnings from on-the-job training, work-study income, income tax refunds (if received in the month of application), loans and grants available for living expenses, interest income (if received in the month of application), maintenance payments, Volunteers in Service to America (VISTA) payments, gifts, refunds from rental and utility deposits, earned income credit, self-employment income, earnings from employment, and earnings of a child aged 16 and over, who is not attending elementary, secondary or the equivalent of vocational or technical school full-time. The following deductions shall be allowed from earned income:

a. The actual, verified amount of employment-related, nonreimbursed child care expenses incurred or reasonably expected to be incurred in the month of application. A child care deduction shall also be allowed for VISTA volunteers.

b. Allowable business expenses in a self-employment enterprise, as defined at subrule 41.27(2).

58.26(2) Exempt income. Exempt income shall include reimbursements, earned as well as unearned income in-kind, vendor payments, earnings of a child under age 16, or age 16 and

older, if the child is attending elementary, secondary or the equivalent level of vocational or technical training school full-time, training allowances designated for a specific purpose (such as those issued by the Job Training Partnership Act, PROMISE JOBS, Vocational Rehabilitation Services, Food Stamp Employment and Training program, etc.), that amount of the lump-sum expended for legal, medical or burial expenses, and legally obligated moneys. Legally obligated money means money that is otherwise payable to the household, but which is diverted by the provider of the payment to a third party for a household expense without the household's consent. Examples of legally obligated moneys are the amount withheld from job insurance benefits to recover an overpayment or for child support for a child not living with the household; or the amount of child support withheld from earnings for a child not living with the household.

58.26(3) Exempt as income and resources. Deposits into an individual development account (IDA) are exempt. The amount of the deposit is exempt as income and shall not be used in the 100 percent of poverty level eligibility test. The deposit must be deducted from nonexempt earned and unearned income that the client receives in the month of application, provided the deposit is made in the month of application. To allow a deduction, verification of the deposit must be provided within five calendar days as described in subrule 58.23(3). The client shall be allowed a deduction only when the deposit is made from the client's money. The earned income deductions described in 58.26(1) "a" and "b" shall be applied to earnings from employment or net profit from self-employment that remains after deducting the amount deposited into the account. If the client has both earned and unearned income, the amount deposited into the IDA shall first be deducted from the client's nonexempt unearned income. Deposits shall not be deducted from earned or unearned income that is exempt.

441—58.27(234) Resources. The household's liquid resources shall not exceed \$1000. Liquid resources are limited to cash on hand, money in checking, savings or credit union accounts, and savings certificates, with the following exceptions: The balance in an individual development account (IDA), including interest earned on the IDA, is exempt as a resource. Income in any given month is not counted as a resource in the same month. When liquid resources are owned by more than one person, unless otherwise established, it is assumed that all persons hold equal shares in the resources. When determining countable resources, the household shall be determined as defined in rule 441—58.21(234). All other resources are exempt. The household's declaration of the amount of liquid resources shall be accepted unless the declaration appears questionable or the amount declared is close to the resource limitation. The household is not required to apply its available resources toward the emergency as long as the resources are within the prescribed limits.

441—58.28(234) Payment.

58.28(1) Maximum payment. The maximum payment shall not exceed \$500 per authorization period. This amount can be applied to a single need or to several needs, not to exceed the maximum amount. Payment shall be issued in the amount of the need, not to exceed \$500.

58.28(2) Vendor payment. Payment shall be issued directly to the vendor in form of a state warrant. Vendors shall be required to complete Form 470-2781, Approval for Vendor Payment, before payment shall be issued. Form 470-2781 shall also be used to notify the vendor of the amount approved for payment.

58.28(3) Authorization period. The authorization period is limited to a period of 30 consecutive days in a 12-month period, and payment shall be approved within that period. The 30-day authorization period begins on the date the first emergency assistance payment is approved for an eligible household. The household may be eligible for more than one payment as long as the total amount of all payments does not exceed the maximum amount and all payments are approved in the period of 30 consecutive days.

441—58.29(234) Notification and appeals. All emergency assistance households shall be given notice with respect to the decision on their application for assistance in accordance with subrule 7.7(1). Households have the right to appeal the department's decision in accordance with rule 441—7.5(217).

441—58.30(234) Discontinuance of the emergency assistance program. The program shall be discontinued when funds have been exhausted. To ensure equitable treatment, applications for emergency assistance shall be approved on a first-come, first-served basis until all funds have been depleted.

441—58.31(234) Special information received from emergency assistance clients. The department shall inform each emergency assistance applicant or recipient that the applicant or recipient may report to the department any incident of undue influence exerted over the applicant or recipient by any source that may prompt the applicant or recipient to apply for assistance from the program. The client may report incidents verbally, by providing a written statement, or by submitting Form 470-2876, Emergency Assistance Special Information Report, to the local office.

The department shall report quarterly to the legislative fiscal committee on any reports received from emergency assistance applicants or recipients.

These rules are intended to implement Iowa Code section 234.6.

[Filed emergency 10/12/90 after Notice 8/22/90—published 10/31/90, effective 11/1/90]

[Filed emergency 6/14/91—published 7/10/91, effective 7/1/91]

[Filed without Notice 9/18/91—published 10/16/91, effective 11/21/91]

[Filed 9/18/91, Notice 7/10/91—published 10/16/91, effective 12/1/91]

[Filed emergency 10/10/91—published 10/30/91, effective 11/21/91]

[Filed 1/29/92, Notice 10/16/91—published 2/19/92, effective 3/25/92]

[Filed 5/14/92, Notice 3/18/92—published 6/10/92, effective 8/1/92]

[Filed emergency 9/17/93—published 10/13/93, effective 10/1/93]

[Filed emergency 11/12/93—published 12/8/93, effective 1/1/94]

[Filed 12/16/93, Notice 10/13/93—published 1/5/94, effective 3/1/94]

[Filed 2/10/94, Notice 12/8/93—published 3/2/94, effective 5/1/94]

CHAPTER 59 UNEMPLOYED PARENT WORKFARE PROGRAM

[Prior to 7/1/83, Social Services(770), Ch 59]

Rescinded, effective 7/1/89; see 441—Chapter 93

canceled as a result of the increase in social security benefits October 1, 1972, as long as these individuals and families would be eligible for an assistance grant if the increase were not considered.

75.1(13) *Persons who would be eligible for supplemental security income or state supplementary assistance but for social security cost-of-living increases received.* Medical assistance shall be available to all current social security recipients who meet the following conditions:

a. They were entitled to and received concurrently in any month after April 1977 supplemental security income and social security or state supplementary assistance and social security, and

b. They subsequently lost eligibility for supplemental security income or state supplementary assistance, and

c. They would be eligible for supplemental security income or state supplementary assistance if all of the social security cost-of-living increases which they and their financially responsible spouses, parents, and dependent children received since they were last eligible for and received social security and supplemental security income (or state supplementary assistance) concurrently were deducted from their income. Spouses, parents, and dependent children are considered financially responsible if their income would be considered in determining the applicant's eligibility.

75.1(14) Rescinded IAB 5/3/89, effective 7/1/89.

75.1(15) *Child medical assistance program (CMAP).* Medicaid shall be available to persons under the age of 21 if the following criteria are met:

a. Financial eligibility shall be determined for the family size of which the child is a member using the income and resource standards in effect for the family investment program (FIP) unless otherwise specified. Income shall be considered as provided in subrule 75.13(1). However, the earned income disregards as provided in 41.27(2) "a," "b," "c," and "d" shall also be allowed for those persons whose income is considered in establishing eligibility for the persons under the age of 21 and whose needs must be included in accordance with 41.28(1) "a" but who are not included in the Medicaid-eligible group. The resource standards of the FIP program shall be utilized in determining eligibility for this coverage group except as provided in subrule 75.13(1). All persons in the household under the age of 21 shall be considered as though they were dependent children. Family size shall be determined as follows:

(1) If the person under the age of 21 is pregnant and the pregnancy has been verified in accordance with rule 441—75.17(249A), the unborn child (or children if more than one) is considered a member of the family for purposes of establishing the number of persons in the family.

(2) A "man-in-the-house" who is not married to the mother of the unborn child is not considered a member of the unborn child's family for the purpose of establishing the number of persons in the family. His income and resources are not automatically considered, regardless of whether or not he is the legal or natural father of the unborn child. However, income and resources made available to the mother of the unborn child by the "man-in-the-house" shall be considered in determining eligibility for the pregnant individual.

(3) When the person under the age of 21 is living with a parent(s), the family size shall consist of all family members as defined by the FIP program in subrule 41.27(8), paragraph "c," and subrule 41.28(1) except as provided in 75.1(15) "a" (1) and (6).

Application for Medicaid shall be made by the parent(s) when the person is residing with them. A person shall be considered to be living with the parent(s) when the person is temporarily absent from the parent's(s)' home as defined in subrule 41.23(3). If the person under the age of 21 is married, the needs, income and resources of the person's parent(s) and any siblings in the home shall not be considered in the eligibility determination.

(4) When a person is living with a spouse the family size shall consist of that person, the spouse and any of their children, including any unborn children.

(5) Siblings under the age of 21 who live together shall be considered in the same filing unit for the purpose of establishing eligibility under this rule unless one sibling is married. In which case, the married sibling shall be considered separately.

(6) When a person is residing in a household in which some members are receiving FIP and when the person is not included in the assistance eligible group, the family size shall consist of the person and all other family members as defined by the FIP program except those in the assistance eligible group.

b. Rescinded IAB 9/6/89, effective 11/1/89.

c. Rescinded IAB 11/1/89, effective 1/1/90.

d. A person is eligible for the entire month in which the person's twenty-first birthday occurs unless the birthday falls on the first day of the month.

e. Living with a specified relative and deprivation shall not be considered when determining eligibility for persons under this coverage group.

75.1(16) Payee. For the purposes of this chapter, payee refers to an SSI payee defined in Iowa Code sections 633.3(7) and 633.3(20) and a FIP payee defined in 441—Chapter 43.

75.1(7) Persons who meet the income and resource requirements of the cash assistance programs. Medical assistance shall be available to the following persons who meet the income and resource guidelines of the family investment program, supplemental security income or refugee cash assistance, but who are not receiving cash assistance:

a. Aged and blind persons, as defined at 75.13(2).

b. Disabled persons, as defined at 441—75.20(249A).

c. Specified relatives, as listed at 441—subrule 41.22(3), taking care of a child who is determined to be dependent (or would be if needy) because the child is deprived of parental support or care.

d. Pregnant women.

75.1(18) Persons eligible for waiver services. Medicaid shall be available to recipients of waiver services as defined in 441—Chapter 83.

75.1(19) Persons and families terminated from aid to dependent children (ADC) prior to April 1, 1990, due to discontinuance of the \$30 or the \$30 and one-third earned income disregards. Rescinded IAB 6/12/91, effective 8/1/91.

75.1(20) Newborn children of Medicaid-eligible mothers. Medicaid shall be available without an application to newborn children of women who had applied for Medicaid prior to the end of their pregnancy and were subsequently determined eligible for Medicaid for the month of the child's birth. Eligibility begins with the month of the birth and continues through the month of the first birthday as long as the child lives with the mother and (1) the mother remains eligible for Medicaid or (2) for a child born on or after January 1, 1991, the mother would be eligible under Iowa's state plan if she were still pregnant.

a. The newborn's birth date shall be verified in order to establish the effective date for Medicaid.

b. In order for Medicaid to continue after the month of the first birthday, an application shall be filed in accordance with rule 441—76.1(249A) and eligibility shall be established under an existing Medicaid coverage group.

75.1(21) Persons and families ineligible for the family investment program (FIP) or refugee cash assistance (RCA) in whole or in part because of child or spousal support. Medicaid shall be available for four months to persons and families who become ineligible for FIP or RCA because of income from child support, alimony, or contributions from a spouse if the person or family member received FIP or RCA or a combination of the two programs in at least three of the six months immediately preceding the month of cancellation.

a. The four months of Medicaid coverage begins the day following termination of FIP or RCA benefits.

b. When ineligibility is determined to occur retroactively, the extended Medicaid coverage begins with the first month in which FIP or RCA was erroneously paid.

c. Recipients terminated from RCA are eligible for the four months of extended Medicaid coverage as long as the 8-month limit for the refugee program is not exceeded. Refugees who applied for or were receiving benefits as of September 30, 1991, shall continue to receive assistance, if eligible, through November 30, 1991, regardless if they have reached or passed the end of the 8-month period and provided the 12-month period of eligibility has not passed.

Health Services Block Grant Programs (Title V of the Social Security Act) or the Health Services for Urban Indians Program (Title V of the Indian Health Care Improvement Act).

2. Participates in the program established under the Special Supplemental Food Program for Women, Infants, and Children (subsection 17 of the Child Nutrition Act of 1966) or the Commodity Supplemental Food Program (subsection 4(a) of the Agriculture and Consumer Protection Act of 1973).

3. Participates in a state perinatal program.

b. The provider shall complete Form 470-2579, Application for Authorization to Make Presumptive Medicaid Eligibility Determinations, and submit it to the department for approval in order to become certified as a provider qualified to make presumptive eligibility determinations. Once the provider has been approved as a provider qualified to make presumptive Medicaid eligibility determinations, Form 470-2582, Memorandum of Understanding Between the Iowa Department of Human Services and a Qualified Provider, shall be signed by the provider and the department.

c. Once the qualified provider has made a presumptive eligibility determination for a pregnant woman, the provider shall:

(1) Contact the department to obtain a state identification number for the pregnant woman who has been determined presumptively eligible.

(2) Notify the department in writing of the determination within five working days after the date the presumptive determination is made. A copy of the Presumptive Medicaid Eligibility Notice of Decision, Form 470-2580, shall be used for this purpose.

(3) Inform the pregnant woman in writing, at the time the determination is made, that if she chose not to apply for Medicaid on the Health Services Application, Form 470-2927, she has until the last day of the month following the month of the preliminary determination to file an application with the department. A Presumptive Medicaid Eligibility Notice of Decision, Form 470-2580, shall be issued by the qualified provider for this purpose.

(4) Forward copies of the Health Services Application, Form 470-2927, to the appropriate offices for eligibility determinations if the pregnant woman indicated on the application that she was applying for any of the other programs listed on the application. These copies shall be forwarded within two working days from the date of the presumptive determination.

d. In the event that a pregnant woman needing prenatal care does not appear to be presumptively eligible, the qualified provider shall inform the pregnant woman that she may file an application at the local department office if she wishes to have a formal determination made.

e. Presumptive eligibility shall end under any of the following conditions:

(1) The woman fails to file an application for Medicaid in accordance with rule 441—76.1(249A) by the last day of the month following the month of the presumptive eligibility determination.

(2) The woman files a Medicaid application by the last day of the month following the month of the presumptive eligibility determination and has been found ineligible for Medicaid.

(3) Rescinded IAB 5/1/91, effective 7/1/91.

f. The adequate and timely notice requirements and appeal rights associated with an application that is filed pursuant to rule 441—76.1(249A) shall apply to an eligibility determination made on the Medicaid application. However, notice requirements and appeal rights of the Medicaid program shall not apply to a woman who is:

(1) Denied presumptive eligibility by a qualified provider.

(2) Determined to be presumptively eligible by a qualified provider and whose presumptive eligibility ends because the woman fails to file an application by the last day of the month following the month of the initial presumptive eligibility determination.

(3) Rescinded IAB 5/1/91, effective 7/1/91.

g. A woman shall not be determined to be presumptively eligible for Medicaid more than once per pregnancy.

75.1(31) *Persons and families terminated from the family investment program (FIP) on or after April 1, 1990, due to the increased earnings of the caretaker relative in the eligible group.* Medicaid shall be available for a period of up to 12 months to persons who are canceled from the FIP program on or after April 1, 1990, because the caretaker relative of a dependent child receives increased income from employment. When the increased earnings of a caretaker relative who is not included in the eligible group but whose income is considered in the eligibility determination create ineligibility, these provisions shall not apply unless there is also another caretaker relative included in the eligible group who is employed.

a. Increased income from employment includes:

- (1) Beginning employment.
- (2) Increased rate of pay.
- (3) Increased hours of employment.

b. In order to receive transitional Medicaid coverage under these provisions, a FIP recipient must have received or been deemed to have received FIP benefits during at least three of the six months immediately preceding the month in which ineligibility occurred.

c. The 12 months' Medicaid coverage begins the day following termination of FIP benefits.

d. When ineligibility is determined to occur retroactively, the transitional Medicaid coverage begins with the first month in which FIP was erroneously paid, unless the provisions of paragraph "f" below apply.

e. A person who returns to the home during the period of transitional Medicaid coverage may be included in the eligible group if the person was included on the assistance grant in the last month of FIP eligibility or deemed eligibility.

f. Transitional Medicaid shall not be allowed under these provisions when it is determined that the recipient received FIP in any of the six months immediately preceding the month of cancellation as the result of fraud. Fraud shall be defined in accordance with Iowa Code section 249.11.

g. During the transitional Medicaid period, assistance shall be terminated at the end of the first month in which the eligible group ceases to include a child, as defined by the FIP program.

h. If the family receives transitional Medicaid coverage during the entire initial six-month period and has returned, by the twenty-first day of the fourth month, a complete Notice of Decision/Quarterly Income Report, Form 470-2663, Medicaid shall continue for an additional six months, subject to paragraphs "g" and "i" of this subrule.

i. Assistance shall be terminated at the close of the first or fourth month of the additional six-month period if any of the following conditions exist:

(1) The family fails to return the Notice of Decision/Quarterly Income Report, Form 470-2663, by the twenty-first day of the first month or the fourth month of the additional six-month period, unless the family establishes good cause for failure to report on a timely basis. Good cause for failure to return the report timely shall be established when the family demonstrates one or more of the following conditions exist:

1. There was a serious illness or death of the recipient or a member of the recipient's family.
2. There was a family emergency or household disaster, such as a fire, flood, or tornado.
3. The recipient offers a good cause beyond the recipient's control.
4. There was a failure to receive the department's notification for a reason not attributable to the recipient. Lack of a forwarding address is attributable to the recipient.

(2) The caretaker relative had no earnings in one or more of the previous three months, unless the lack of earnings was due to an involuntary loss of employment, illness, or there were instances when problems could negatively impact the client's achievement of self-sufficiency as described at 441—subrule 93.133(4).

(3) It is determined that the family's average gross earned income, minus child care expenses for the children in the eligible group necessary for the employment of the caretaker relative, during the immediately preceding three-month period exceeds 185 percent of the federal poverty level as defined by the United States Office of Management and Budget and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981.

shall be treated separately for eligibility. If they live in the same facility after six months of continuous residence, they may be considered as a couple for medical assistance effective the first day of the seventh calendar month of continuous residency if one partner would be ineligible for medical assistance or receive reduced benefits by considering them separate individuals or if they choose to be considered together.

In the month of entry into a medical institution, income shall not exceed the amount of the income limit established in subrule 75.1(7).

75.5(3) Attribution of resources to institutionalized spouse and community spouse. The department shall determine the attribution of a couple's resources to the institutionalized spouse and to the community spouse when the institutionalized spouse is expected to remain in a medical institution at least 30 consecutive days on or after September 30, 1989, at the beginning of the first continuous period of institutionalization.

a. When initiated. The department shall initiate the attribution of resources when:

(1) Either spouse requests that the department determine the attribution of resources at the beginning of the person's continuous stay in a medical facility. This request must be accompanied by Form 470-2577, Resources Upon Entering a Medical Facility, and necessary documentation.

(2) The institutionalized spouse or someone acting on that person's behalf applies for Medicaid benefits. If the application is not made in the month of entry, the applicant shall also complete Form 470-2577 and provide necessary documentation.

b. Information required. The couple must provide the social security number of the community spouse. The attribution process shall include a match of the Internal Revenue Service data for both the institutionalized and community spouses.

c. Resources considered. The resources attributed shall include resources owned by both the community spouse and institutionalized spouse except for the following resources:

(1) The home in which the spouse or relatives as defined in subrule 41.22(3)"a" live (including the land that appertains to the home).

(2) Household goods, personal effects, and one automobile.

(3) The value of any burial spaces held for the purpose of providing a place for the burial of either spouse or any other member of the immediate family.

(4) Other property essential to the means of self-support of either spouse as to warrant its exclusion under the SSI program.

(5) Resources of a blind or disabled person who has a plan for achieving self-support as determined by division of vocational rehabilitation or the department of human services.

(6) For natives of Alaska, shares of stock held in a regional or a village corporation, during the period of 20 years in which the stock is inalienable, as provided in Section 7(h) and Section 8(c) of the Alaska Native Claims Settlement Act.

(7) Assistance under the Disaster Relief Act and Emergency Assistance Act or other assistance provided pursuant to federal statute on account of a presidentially declared major disaster and interest earned on these funds for the nine-month period beginning on the date these funds are received or for a longer period where good cause is shown.

(8) Any amount of underpayment of SSI or social security benefit due either spouse for one or more months prior to the month of receipt. This exclusion shall be limited to the first six months following receipt.

(9) A life insurance policy(ies) whose total face value is \$1500 or less per spouse.

(10) An amount, not in excess of \$1500 for each spouse that is separately identifiable and has been set aside to meet the burial and related expenses of that spouse. The amount of \$1500 shall be reduced by an amount equal to the total face value of all insurance policies which are owned by the person or spouse and the total of any amounts in an irrevocable trust or other irrevocable arrangement available to meet the burial and related expenses of that spouse.

(11) Federal assistance paid for housing occupied by the spouse.

(12) Assistance from a fund established by a state to aid victims of crime for nine months from receipt when the client demonstrates that the amount was paid as compensation for expenses incurred or losses suffered as a result of a crime.

(13) Relocation assistance provided by a state or local government to a client comparable to assistance provided under Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 which is subject to the treatment required by section 216 of the Act.

d. Method of attribution. The resources attributed to the institutionalized spouse shall be one-half of the documented resources of both the institutionalized and community spouse as of the first moment of the first day of the month of the spouse's first entry to a medical facility. However, if one-half of the resources is less than \$24,000, then \$24,000 shall be protected for the community spouse. Also, when one-half the resources attributed to the community spouse exceeds \$72,660, the amount over \$72,660 shall be attributed to the institutionalized spouse. (The maximum limit shall be indexed annually by the consumer price index.)

If the institutionalized spouse has transferred resources to the community spouse under a court order for the support of the community spouse, the amount transferred shall be the amount attributed to the community spouse if it exceeds the specified limits above.

e. Notice. The department shall provide each spouse a notice of the attribution results. The notice shall state that either spouse has a right to appeal the attribution if the spouse believes:

(1) That the attribution is incorrect.

(2) That the amount of income generated by the resources attributed to the community spouse is inadequate to raise the community spouse's income to the minimum monthly maintenance allowance.

f. Appeals. Hearings on attribution decisions shall be governed by procedures in 441—Chapter 7. If the hearing establishes that the community spouse's resource allowance is inadequate to raise the community spouse's income to the minimum monthly maintenance allowance, there shall be substituted an amount adequate to provide the minimum monthly maintenance needs allowance.

(1) To establish that the resource allowance is inadequate and receive a substituted allowance, the applicant must provide verification of all the income of the community spouse.

(2) The amount of resources adequate to provide the community spouse minimum maintenance needs allowance shall be based on the cost of a single premium lifetime annuity with monthly payments equal to the difference between the monthly maintenance needs allowance and other countable income not generated by either spouse's countable resources.

(3) The resources necessary to provide the minimum maintenance needs allowance shall be based on the maintenance needs allowance as provided by these rules at the time of the filing of the appeal.

(4) To receive the substituted allowance, the applicant shall be required to obtain three estimates of the cost of the annuity and these amounts shall be averaged to determine the cost of an annuity.

(5) The averaged estimates representing the cost of an annuity shall be substituted for the amount of resources attributed to the community spouse when the amount of resources previously determined is less than the averaged cost of an annuity. If the amount of resources previously attributed to the community spouse is greater than the averaged cost of an annuity, there shall be no substitution for the cost of the annuity and the attribution will remain as previously determined.

(6) The applicant shall not be required to purchase this annuity as a condition of Medicaid eligibility.

75.5(4) Consideration of resources of married people.

a. One spouse in a medical facility who entered the facility on or after September 30, 1989.

shelter or services are provided in reliance on an agreement made at the time of transfer.
This rule is intended to implement Iowa Code section 249A.3.

441—75.7(249A) Furnishing of social security number. As a condition of eligibility applicants or recipients of Medicaid must furnish their social security account numbers or proof of application for the numbers if they have not been issued or are not known and provide their numbers upon receipt.

75.7(1) Assistance shall not be denied, delayed, or discontinued pending the issuance or verification of the numbers when the applicants or recipients are cooperating in providing information necessary for issuance of their social security numbers.

75.7(2) The mother of a newborn child shall have until the second month following the mother's discharge from the hospital to apply for a social security account number for the child.

This rule is intended to implement Iowa Code section 249A.3.

441—75.8(249A) Medical assistance corrective payments. If a decision by the department or the Social Security Administration following an appeal on a denied application for any of the categories of medical assistance eligibility set forth in rule 441—75.1(249A) is favorable to the claimant, reimbursement will be made to the claimant for any medical bills paid by the claimant that were incurred during the period between the date on which eligibility would have existed if the correct decision had been made prior to the denial and the date regular medical assistance coverage began based on the following conditions:

75.8(1) These bills must be for services covered by the medical assistance program as set forth in 441—chapter 78.

75.8(2) Reimbursement will be based on the recipient's reasonable out-of-pocket expenses.

75.8(3) If a county relief agency has paid medical bills on the recipient's behalf and has not deducted these amounts from the recipient's initial retroactive Supplemental Security Income (SSI) benefit under the provisions of the interim assistance reimbursement program (441—chapter 57), the department will reimburse the county relief agency directly on the same basis as if the reimbursement was made to the recipient. If the county relief agency has deducted these costs from the recipient's initial retroactive SSI benefit, the department will reimburse the recipient directly.

75.8(4) Recipients and county relief agencies shall file claims for payment under this subrule by submitting Form 470-2224, Verification of Paid Medical Bills, to the department. A supply of these forms is available from the local office. All requests for reimbursement shall be acted upon within sixty (60) days of receipt of all Form 470-2224 in the local office.

75.8(5) Any adverse action taken by the department with respect to an application for reimbursement is appealable under 441—chapter 7.

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

441—75.9(249A) Treatment of Medicaid qualifying trusts.

75.9(1) A Medicaid qualifying trust is a trust or similar legal device established, on or before August 10, 1993, other than by will by a person or that person's spouse under which the person may be the beneficiary of payments from the trust and the distribution of these payments is determined by one or more trustees who are permitted to exercise any discretion with respect to the distribution to the person. Trusts or initial trust decrees established prior to April 7, 1986, solely for the benefit of a mentally retarded person who resides in an intermediate care facility for the mentally retarded, are exempt.

75.9(2) The amount of income and principal from a Medicaid qualifying trust that shall be considered available shall be the maximum amount that may be permitted under the terms of the trust assuming the full exercise of discretion by the trustee or trustees for the distribution of the funds.

a. Trust income considered available shall be counted as income.

b. Trust principal (including accumulated income) considered available shall be counted as a resource, except where the trust explicitly limits the amount of principal that can be made available on an annual or less frequent basis. Where the trust limits the amount, the principal considered available over any particular period of time shall be counted as income for that period of time.

c. To the extent that the trust principal and income is available only for medical care, this principal or income shall not be used to determine eligibility. To the extent that the trust is restricted to medical expenses, it shall be used as a third party resource.

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

441—75.10(249A) Residency requirements. Residency in Iowa is a condition of eligibility for medical assistance.

75.10(1) Definitions.

"Incapable of expressing intent" shall mean that the person meets one or more of the following conditions:

1. Has an IQ of 49 or less or has a mental age of seven or less.
2. Is judged legally incompetent.
3. Is found incapable of indicating intent based on medical documentation obtained from a physician, psychologist or other person licensed by the state in the field of mental retardation.

"Institution" shall mean an establishment that furnishes (in single or multiple facilities) food, shelter, and some treatment or services to four or more persons unrelated to the proprietor. Foster care facilities are included.

75.10(2) Determining residency. Residency is determined according to the following criteria:

a. Persons aged 21 and over.

(1) For any person not residing in an institution the state of residence is the state where the person is:

1. Living with the intention to remain there permanently or for an indefinite period (or, if incapable of expressing intent, where the person is living), or
2. Living and which the person entered with a job commitment or seeking employment (whether or not currently employed).

(2) For any institutionalized person who became incapable of indicating intent before age 21, the person's state of residence is:

1. That of the parent applying for Medicaid on the person's behalf, if the parents reside in separate states. If a legal guardian has been appointed and parental rights are terminated, the state of residence of the guardian is used instead of the parent's.

2. The parent's or legal guardian's state of residence at the time of placement. If a legal guardian has been appointed and parental rights are terminated, the state of residence of the guardian is used instead of the parent's.

3. The current state of residence of the parent or legal guardian who files the application if the person is institutionalized in the state. If a legal guardian has been appointed and parental rights are terminated, the state of residence of the guardian is used instead of the parent's.

4. The state of residence of the person who has been abandoned by the person's parents and does not have a legal guardian is the state in which the person is institutionalized.

(3) For any institutionalized person who became incapable of expressing intent at or after age 21, the state of residence is the state in which the person is physically present, except where another state makes a placement.

(4) For any other institutionalized person the state of residence is the state where the person is living with the intention to remain there permanently or for an indefinite period.

b. Persons under age 21.

(1) For any person who is emancipated from the person's parents or who is married and capable of expressing intent, the state of residence is the state where the person is living with the intention to remain there permanently or for an indefinite period.

(2) For any person not residing in an institution or foster home whose Medicaid eligibility is based on blindness or disability, the state of residence is the state in which the person is living.

(3) For any other person not in an institution or foster home and not subject to subparagraph (1) or (2) above, the state of residence is determined in accordance with subrule 41.23(1).

(4) For any person in an institution or foster home who is neither married nor emancipated, the state of residence is:

1. The parent's or legal guardian's state of residence at the time of placement. If a legal guardian has been appointed and parental rights are terminated, the state of residence of the guardian is used instead of the parent's.

2. The current state of residence of the parent or legal guardian who files the application if the person is in institutionalized or in foster care in that state. If a legal guardian has been appointed and parental rights are terminated, the state of residence of the guardian is used instead of the parent's.

3. The state of residence of the person who has been abandoned by the person's parents and does not have a legal guardian is the state in which the person is institutionalized or in foster care.

c. Persons placed by a state in an out-of-state foster home or institution. A state arranging or actually making the placement of a person in an institution or foster home in another state is considered the person's state of residence. However, a Title IV-E eligible child placed out of state by the department is eligible for Medicaid from the other state. Therefore, the Title IV-E eligible child shall only receive Iowa Medicaid until the receiving state provides coverage. A Title IV-E eligible child placed in Iowa by another state shall be considered eligible for Iowa Medicaid.

d. Medicaid-eligible persons receiving Medicaid from another state and gaining Iowa residency. These persons shall be granted Medicaid beginning with the month of residency in Iowa if the person is otherwise eligible and surrenders the other state's medical card.

441—75.11(249A) Citizenship or alienage requirements.

75.11(1) Definitions.

"Emergency medical condition" shall mean a medical condition (including labor and delivery) manifesting itself by acute symptoms of sufficient severity (including severe pain) that the absence of immediate medical attention could reasonably be expected to result in one or more of the following:

1. Placing the patient's health in serious jeopardy.
2. Serious impairment to bodily functions.
3. Serious dysfunction of any bodily organ or part.

"Emergency services" shall mean services provided in a hospital, clinic, office or other facility that is equipped to furnish the required care after the sudden onset of an emergency medical condition. Payment for emergency services shall be limited to the day treatment is initiated for the emergency medical condition and the two following days.

"Services for pregnant women" shall mean any covered services furnished to a pregnant woman which relate to the pregnancy or to any other medical condition which may complicate the pregnancy.

75.11(2) Citizenship and alienage.

a. To be eligible for Medicaid a person must be one of the following:

- (1) A citizen or national of the United States.
- (2) An alien lawfully admitted for permanent residence or otherwise permanently residing in the United States under color of law.
- (3) A newly legalized alien granted temporary residence status under the Immigration Reform and Control Act of 1986 (Public Law 99-603) or Title IX of Public Law 100-202.

b. As a condition of continued eligibility, recipients of FIP-related Medicaid not actually receiving FIP who have been continuous recipients since August 1, 1988, must complete and

sign Form 470-2549, Statement of Citizenship Status, attesting to the recipient's citizenship or alien status. The Statement of Citizenship Status shall be signed by the recipient, the other parent, if both parents are in the home, and all other adult household members that are included in the eligible group. Adult recipients must sign the form for dependent children. When the recipient is incompetent or incapacitated, someone acting responsibly on behalf of the recipient may complete and sign the form. As a condition of eligibility, all applicants for Medicaid shall attest to their citizenship status by signing the application form which contains the same declaration. As a condition of continued eligibility, recipients of SSI-related Medicaid not actually receiving SSI who have been continuous recipients since August 1, 1988, shall attest to their citizenship status by signing the application form which contains a similar declaration at time of review.

75.11(3) For five years from the date lawful temporary status is granted under the Immigration Reform and Control Act of 1986 or Public Law 100-202, persons who are not covered in paragraphs "a" through "f" below may be eligible only for emergency services or services for pregnant women. Persons covered under paragraphs "a" through "f" below may be eligible for all covered Medicaid services.

a. Under the age of 18.

b. A Cuban or Haitian entrant.

c. Age 65 or older.

d. Blind which means having central visual acuity of 20/200 or less in the better eye with use of corrective lens or visual field restriction to 20 degrees or less.

e. Disabled which means being unable to engage in substantial gainful activity by reason of any medically determinable physical or mental impairment which has lasted or is expected to last for a continuous period of not less than 12 months from the date of application.

f. Special agricultural workers who are ineligible for the family investment program (FIP) for reasons other than the five-year bar on FIP eligibility under the Immigration Reform and Control Act of 1986.

75.11(4) The requirements of rule 441—75.7(249A) and subrule 75.11(2) do not apply to eligibility for aliens seeking the care and services necessary for the treatment of an emergency medical condition.

441—75.12(249A) Persons who enter jails or penal institutions. A person who enters a jail or penal institution, including a work release center, shall not be eligible for Medicaid.

441—75.13(249A) Categorical relatedness.

75.13(1) FIP-related Medicaid-only eligibility.

a. FIP-related Medicaid-only eligibility shall be determined using the income criteria in effect for the FIP program as provided in 441—Chapter 41 with the following exception:

Income of an alien ineligible for FIP for any reason other than the five-year bar on FIP eligibility under the Immigration Reform and Control Act of 1986 but not barred from full Medicaid coverage under 75.11(3)"f" shall be treated as if the alien was not barred from FIP eligibility.

b. Eligibility for FIP-related Medicaid shall be determined using the resource criteria in effect for the FIP program as provided in 441—Chapter 41, unless otherwise provided in this chapter, except that the nonhomestead real property exemption as provided in 41.26(6)"d" does not apply.

c. Persons ineligible for FIP for not cooperating with PROMISE JOBS, and persons participating in a strike are not eligible for Medicaid under the coverage groups established at 75.1(1) and 75.1(2). Persons receiving Medicaid under the coverage group established at 75.1(1) are referred to PROMISE JOBS and must cooperate with PROMISE JOBS to remain eligible for Medicaid under this coverage group.

75.13(2) Eligibility for SSI-related Medicaid shall be determined using the eligibility requirements in effect governing the SSI program in conjunction with the policies found in 441—Chapters 75 and 76. Income shall be considered prospectively.

For purposes of determining eligibility for SSI-related Medicaid, the SSI conditional eligibility process at 20 CFR 416.1240 to 416.1245 as amended to March 21, 1990, by which a client may receive SSI benefits while attempting to sell excess resources, is not considered an eligibility methodology. Persons found eligible for Medicaid prior to October 1, 1993, based on the SSI conditional eligibility process as an eligibility methodology may continue to be eligible for Medicaid on that basis until no later than April 1, 1994.

441—75.14(249A) Establishing paternity and obtaining support.

75.14(1) As a condition of eligibility, applicants and recipients of Medicaid in households with an absent parent shall cooperate in obtaining medical support for the applicant or recipient as well as for any other person in the household for whom Medicaid is requested and for whom the person can legally assign rights for medical support, except when good cause as defined in 441—subrule 41.22(8) for refusal to cooperate is established.

a. The applicant or recipient shall cooperate in the following:

- (1) Identifying and locating the parent of the child for whom Medicaid is requested.
- (2) Establishing the paternity of a child born out of wedlock for whom Medicaid is requested.
- (3) Obtaining medical support and payments for medical care for the applicant or recipient and for a child for whom Medicaid is requested.
- (4) Rescinded IAB 2/3/93, effective 4/1/93.

b. Cooperation is defined as including the following actions by the applicant or recipient:

- (1) Appearing at the county office or the child support recovery unit to provide verbal or written information or documentary evidence known to, possessed by or reasonably obtainable by the applicant or recipient that is relevant to achieving the objectives of the child support recovery program.

(2) Appearing as a witness at judicial or other hearings or proceedings.

(3) Providing information, or attesting to the lack of information, under penalty of perjury.

c. The applicant or recipient shall cooperate with the county office in supplying information with respect to the absent parent, the receipt of medical support or payments for medical care, and the establishment of paternity, to the extent necessary to establish eligibility for assistance and permit an appropriate referral to the child support recovery unit.

d. The applicant or recipient shall cooperate with the child support recovery unit to the extent of supplying all known information and documents pertaining to the location of the absent parent and taking action as may be necessary to secure medical support and payments for medical care or to establish paternity as specified in 441—paragraph 41.22(6)“*d.*”

e. The income maintenance unit in the county office shall make the determination of whether or not the client has cooperated.

75.14(2) Failure of the applicant or recipient to cooperate shall result in denial of Medicaid benefits or in cancellation of the person’s Medicaid benefits. In FIP-related Medicaid cases, all deductions and disregards described at 41.27(2)“*a.*,” “*b.*,” and “*c.*” shall be allowed but income shall not be diverted to meet the needs of the parent who refuses to cooperate without good cause when establishing eligibility for the children as described at 41.27(8)“*a.*”(1).

75.14(3) Each applicant for or recipient of Medicaid who is required to cooperate with the child support recovery unit shall have the opportunity to claim good cause for refusing to cooperate in establishing paternity or securing medical support and payments for medical care. The provisions set forth in 441—subrules 41.22(8) to 41.22(12) shall be used when making a determination of the existence of good cause.

75.14(4) Each applicant for or recipient of Medicaid shall assign to the department any rights to medical support and payments for medical care from any other person for which the person can legally make assignment. This shall include rights to medical support and payments for medical care in the applicant’s or recipient’s own behalf or in behalf of any other family member for whom the applicant or recipient is applying. An assignment is effective the same date the county office enters the eligibility information into the automated benefit calculation system and is effective for the entire period for which eligibility is granted. Support payments not intended for medical support shall not be assigned to the department.

75.14(5) Referrals to the child support recovery unit for Medicaid applicants or recipients shall be made in accordance with 441—subrule 41.22(5).

75.14(6) Pregnant women establishing eligibility under subrule 75.1(28) shall be exempt from the provisions in this rule for any born child for whom the pregnant woman applies for or receives Medicaid. Additionally, any previously pregnant woman eligible under the provision of subrule 75.1(24) shall not be subject to the provisions in this rule until after the end of the month in which the 60-day postpartum period expires. Pregnant women establishing eligibility under any coverage groups except that set forth in subrule 75.1(24) or 75.1(28) shall be subject to the provisions in this rule when establishing eligibility for born children. A pregnant woman who would be eligible under any coverage group other than the coverage group set forth in subrule 75.1(24) or 75.1(28) if she cooperated in establishing paternity and obtaining medical support for born children shall not be eligible under any coverage group if she fails to cooperate without good cause.

This rule is intended to implement Iowa Code sections 239.5 and 249A.4.

441—75.15(249A) Disposal of resources for less than fair market value on or after July 1, 1989, or on or after October 1, 1989, between spouses, and on or before August 10, 1993.

75.15(1) In determining Medicaid eligibility for persons described in 441—Chapters 75, 83, and 86, transfers of resources occurring on or after October 1, 1989, between spouses or on or after July 1, 1989, between others, and on or before August 10, 1993, will affect Medicaid payment for medical services as provided in this rule. Resources transferred by an institutionalized person or an institutionalized person's spouse during or after the 30-month period before the date the person entered the medical institution (for persons eligible for Medicaid on that date), or (for persons not eligible on that date), the date application is made while a person is residing in a medical institution, shall disqualify the institutionalized person for Medicaid payment of nursing facility services and for a level of care in a medical institution equivalent to that of nursing facility services and for home- and community-based waiver services with these exceptions:

a. The transfer of resources was between spouses or to another for the sole benefit of the institutionalized person's spouse on or after October 1, 1989.

b. Rescinded IAB 3/7/90, effective 5/1/90.

c. The transfer of resources was pursuant to a court order against the institutionalized spouse for the support of a community spouse and the resources were transferred for the support of the community spouse, or for the support of a minor or dependent child, dependent parent, or dependent sibling of the institutionalized or community spouse residing with the community spouse.

d. The resource transferred was a home and the home was transferred to any of the following:

(1) The spouse of the institutionalized person.

(2) A child of the institutionalized person who is under age 21, or who is blind or disabled as defined under Section 1614 of the Social Security Act.

(3) A sibling of the institutionalized person who has an equity interest in the home and who was residing in the home for a period of at least one year immediately before the date the person became an "institutionalized person" or eligible for home- and community-based waiver.

(4) A son or daughter of the institutionalized person who was residing in the person's home for a period of at least two years immediately before the date the person became an institutionalized person and who provided care to the person which permitted the person to reside at home rather than in a medical institution.

e. The transfer of resources was to the institutionalized person's blind or disabled child as defined under Section 1614 of the Social Security Act.

f. The transferor makes a satisfactory showing that the transferor intended to dispose of the resource either at fair market value or for other valuable consideration, or that the resource was transferred exclusively for another purpose other than to establish eligibility for Medicaid.

g. It is determined that denial of eligibility would work an undue hardship under 75.15(3). **75.15(2)** Unless exempt, the transfer of resources will result in 30 months of ineligibility beginning with the month of transfer, or a lesser period determined by dividing the total uncompensated value of resources transferred by the average statewide cost of nursing facility services to a private pay resident at the time of application.

a. When there is more than one transfer of resources within the 30 months before application for nursing facility care or home- and community-based waiver services or after assistance is granted for nursing facility care or HCBW services, and the penalty periods for the multiple transfers overlap, the uncompensated value of the transferred resources shall be added together to determine the period of ineligibility. The penalty period shall begin with the month of the first transfer, and the period shall not exceed 30 months from the last transfer.

b. The average statewide cost to a private pay resident shall be determined by the department and updated annually for nursing facilities.

For the period from July 1, 1993, through June 30, 1994, this average statewide cost shall be \$2,477.13.

75.15(3) Undue hardship in denying eligibility will exist only where both of the following conditions are met:

a. The person who transferred the resource or the person's spouse has exhausted all means including legal remedies and consultation with an attorney to recover the resource.

b. The person's remaining available resources (after the attribution for the community spouse) are less than the monthly statewide average cost of nursing facility services to a private pay resident. The value of all resources is counted except for:

(1) The home if occupied by a dependent relative, or a doctor verifies that the person is expected to return home.

(2) Household goods.

(3) A vehicle required by the client for transportation.

(4) Funds for burial of \$4,000 or less.

Hardship will not be found if the resource was transferred to a person who was handling the financial affairs of the client or to the spouse or children of a person handling the financial affairs of the client unless the client demonstrates the payments cannot be obtained from the funds of the person who handled the financial affairs to pay for nursing facility services.

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

441—75.16(249A) Client participation in payment for medical institution care. Medicaid clients are required to participate in the cost of medical institution care. However, no client participation is charged when the combination of Medicare payments and the Medicaid benefits available to qualified Medicare beneficiaries covers the cost of institutional care.

75.16(1) Income considered in determining client participation. The department determines the amount of client participation based on the client's total monthly income, with the following exceptions:

a. *FIP-related clients.* The income of a client and family whose eligibility is FIP-related is not available for client participation when both of the following conditions exist:

(1) The client has a parent or child at home.

(2) The family's income is considered together in determining eligibility.

b. *SSI-related clients who are employed.* If a client receives SSI and is substantially gainfully employed, as determined by the Social Security Administration, the client shall have the SSI and any mandatory state supplementary assistance payment exempt from client participation for the two full months after entry to a medical institution.

c. *SSI-related clients returning home within three months.* If the Social Security Administration continues a client's SSI or federally administered state supplementary assistance payments for three months because it is expected that the client will return home within three months, these payments shall be exempt from client participation.

d. Married couples.

(1) Institutionalized spouse and community spouse. If there is a community spouse, only the institutionalized person's income shall be considered in determining client participation.

(2) Both spouses institutionalized. Client participation for each partner in a marriage shall be based on one-half of the couple's combined income when the partners are considered together for eligibility. Client participation for each partner who is considered individually for eligibility shall be determined individually from each person's income.

(3) Rescinded, IAB 7/11/90, effective 7/1/90.

e. State supplementary assistance recipients. The amount of client participation that a client paid under the state supplementary assistance program is not available for Medicaid client participation in the month of the client's entry to a medical institution.

f. Foster care recipients. The amount of income paid for foster care for the days that a child is in foster care in the same month as entry to a medical institution is not available for client participation.

75.16(2) Allowable deductions from income. In determining the amount of client participation, the department allows the following deductions from the client's income, taken in the order they appear:

a. Ongoing personal needs allowance. All clients shall retain \$30 of their monthly income for a personal needs allowance with the following exception. If the client is a veteran or surviving spouse of a veteran who receives a Veterans' Administration pension subject to limitation of \$90 after the month of entry pursuant to 38 U.S.C. Section 3203 (f)(2), the veteran or surviving spouse of a veteran shall retain \$90 from the veteran's pension for their personal needs allowance beginning the month after entry to a medical institution. The \$90 allowance from a veteran's pension is in lieu of the \$30 allowance from any income, not in addition thereto.

If the client has earned income, an additional \$65 is added to the ongoing personal needs allowance from the earned income only.

b. Personal needs in the month of entry.

(1) Single person. A single person shall be given an allowance for stated home living expenses during the month of entry, up to the amount of the SSI benefit for a single person.

(2) Spouses entering institutions together and living together. Partners in a marriage who enter a medical institution in the same month and live in the same room shall be given an allowance for stated home living expenses during the month of entry, up to the amount of the SSI benefit for a couple.

(3) Spouses entering an institution together but living apart. Partners in a marriage who enter a medical institution during the same month and who are considered separately for eligibility shall each be given an allowance for stated home living expenses during the month of entry, up to one-half of the amount of the SSI benefit for a married couple. However, if the income of one spouse is less than one-half of the SSI benefit for a couple, the remainder of the allowance shall be given to the other spouse. If the couple's eligibility is determined together, an allowance for stated home living expenses shall be given to them during the month of entry up to the SSI benefit for a married couple.

(4) Community spouse enters a medical institution. When the second member of a married couple enters a medical institution in a later month, that spouse shall be given an allowance for stated expenses during the month of entry, up to the amount of the SSI benefit for one person.

c. Personal needs in the month of discharge. The client shall be allowed a deduction for home living expenses in the month of discharge. The amount of the deduction shall be the SSI benefit for one person (or for a couple, if both members are discharged in the same month). This deduction does not apply when a spouse is at home.

d. Maintenance needs of spouse and other dependents.

(1) Persons covered. An ongoing allowance shall be given for the maintenance needs of a community spouse. The allowance is limited to the extent that income of the institutional-

ized spouse is made available to or for the benefit of the community spouse. If there are minor or dependent children, dependent parents, or dependent siblings of either spouse who live with the community spouse, an ongoing allowance shall also be given to meet their needs.

(2) **Income considered.** The verified gross income of the spouse and dependents shall be considered in determining maintenance needs. The gross income of the spouse and dependent shall include all monthly earned and unearned income and assistance from the family investment program (FIP), supplemental security income (SSI), and state supplementary assistance (SSA). It shall also include the proceeds of any annuity or contract for sale of real property. Otherwise, the income shall be considered as the SSI program considers income. In addition, the spouse and dependents shall be required to apply for every income benefit for which they are eligible except that they shall not be required to accept SSI, FIP or SSA in lieu of the maintenance needs allowance. Failure to apply for all benefits shall mean reduction of the maintenance needs allowance by the amount of the anticipated income from the source not applied for.

(3) **Needs of spouse.** The maintenance needs of the spouse shall be determined by subtracting the spouse's gross income from \$1816.50. (This amount shall be indexed for inflation annually according to the consumer price index.)

However, if either spouse established through the appeal process that the community spouse needs income above \$1816.50, due to exceptional circumstances resulting in significant financial duress, an amount adequate to provide additional income as is necessary shall be substituted.

Also, if a court has entered an order against an institutionalized spouse for monthly income to support the community spouse, then the community spouse income allowance shall not be less than this amount.

(4) **Needs of other dependents.** The maintenance needs of the other dependents shall be established by subtracting each person's gross income from 133 percent of the monthly federal poverty level for a family of two and dividing the result by three. (Effective July 1, 1992, the percent shall be 150 percent.)

e. Maintenance needs of children (without spouse). When the client has children under 21 at home, an ongoing allowance shall be given to meet the children's maintenance needs.

The income of the children is considered in determining maintenance needs. The children's countable income shall be their gross income less the disregards allowed in the FIP program.

The children's maintenance needs shall be determined by subtracting the children's countable income from the FIP payment standard for that number of children. (However, if the children receive FIP, no deduction is allowed for their maintenance needs.)

f. Client's medical expenses. A deduction shall be allowed for the client's incurred expenses for medical or remedial care that are not subject to payment by a third party. This includes Medicare premiums and other health insurance premiums, deductibles or coinsurance, and necessary medical or remedial care recognized under state law but not covered under the state Medicaid plan.

This rule is intended to implement Iowa Code sections 239.5 and 249A.4.

441—75.17(249A) Verification of pregnancy. For the purpose of establishing Medicaid eligibility for pregnant women under this chapter, a signed statement from a maternal health center, family planning agency, physician's office, or other physician-directed qualifying provider as specified under the federal Social Security Act, subsection 1902, shall serve as verification of pregnancy. Additionally, the number of fetuses shall be verified if more than one exists, and the probable date of conception shall be established when necessary to determine eligibility. When an examination is required and other medical resources are not available to meet the expense of the examination, the provider shall be authorized to make the examination and submit the claim for payment.

441—75.18(249A) Continuous eligibility for pregnant women. A pregnant woman who applies for Medicaid prior to the end of her pregnancy and subsequently establishes initial Medicaid eligibility under the provisions of this chapter shall remain continuously eligible throughout the pregnancy and the 60-day postpartum period, as provided in subrule 75.1(24), regardless of any changes in family income.

441—75.19(249A) Persons who may be excluded from the eligible group in determining FIP-related Medicaid eligibility.

75.19(1) In determining eligibility under any FIP-related Medicaid coverage group in this chapter, the following persons may be excluded from the eligible group when determining Medicaid eligibility of other household members.

- a. Siblings (of whole or half blood, or adoptive) of eligible children.
- b. Self-supporting parent(s) of minor unmarried parents.
- c. Rescinded IAB 4/3/91, effective 3/14/91.
- d. Stepparents of eligible children.

75.19(2) The needs, income and resources of persons who are excluded shall also be excluded. If the income of the self-supporting parent(s) of a minor unmarried parent is excluded, then the needs of the minor unmarried parent shall also be excluded. However, the income and resources of the minor unmarried parent shall not be excluded. If the income of the stepparent is excluded, the need of the natural parent shall also be excluded.

75.19(3) Persons whose needs are excluded from the eligibility determination shall not be entitled to Medicaid under this or any other coverage group.

75.19(4) In situations where the parent's needs are excluded but the parent's income and resources are considered in the eligibility determination (e.g., minor unmarried parent living with self-supporting parents), the excluded parent shall be allowed the earned income deduction, child care expenses and the 50 percent work incentive disregard as provided in 41.27(2) "a" and "b."

75.19(5) In situations where the child's needs, income and resources are excluded from the eligibility determination pursuant to subrule 75.19(1), and the child's income is not sufficient to meet the child's needs, the parent shall be allowed to divert income to meet the unmet needs of the excluded child. The maximum amount to be diverted shall be the difference between the FIP schedule of basic needs of the eligible group with the child included and the FIP schedule of basic needs with the child excluded.

441—75.20(249A) Disability requirements for SSI-related Medicaid.

75.20(1) Applicants receiving federal benefits. An applicant receiving supplemental security income on the basis of disability, social security disability benefits under Title II of the Social Security Act, or railroad retirement benefits based on the Social Security law definition of disability by the Railroad Retirement Board, shall be deemed disabled without further determination of disability.

75.20(2) Applicants not receiving federal benefits. When disability has not been established based on the receipt of social security disability or railroad retirement benefits based on the same disability criteria as used by the Social Security Administration, the department shall determine eligibility for SSI-related Medicaid based on disability as follows:

a. A Social Security Administration (SSA) disability determination under either a social security disability (Title II) application or a supplemental security income application is binding on the department until changed by SSA unless the applicant meets one of the following criteria:

(1) The applicant alleges a disabling condition different from, or in addition to, that considered by SSA in making its determination.

b. A timely and adequate notice as defined in 441—subrule 7.7(1) shall be provided to the recipient informing the recipient of a decision to discontinue payment of the health insurance premium when the recipient no longer meets the eligibility requirements of the program or fails to cooperate in providing information to establish eligibility.

75.22(10) Confidentiality. The department shall protect the confidentiality of persons participating in the program in accordance with Iowa Code chapter 141. When it is necessary for the department to contact a third party to obtain information in order to determine initial or ongoing eligibility, a Consent to Release or Obtain Information, Form 470-0429, shall be signed by the recipient authorizing the department to make the contact.

This rule is intended to implement Iowa Code section 249A.4 and 1992 Iowa Acts, Second Extraordinary Session, chapter 1001, section 409, subsection 6.

441—75.23(249A) Disposal of assets for less than fair market value after August 10, 1993. In determining Medicaid eligibility for persons described in 441—Chapters 75, 83, and 86, a transfer of assets occurring after August 10, 1993, will affect Medicaid payment for medical services as provided in this rule.

75.23(1) Ineligibility for services.

a. If an institutionalized individual or the spouse of the individual disposed of assets for less than fair market value on or after the look-back date specified in 75.23(2), the institutionalized individual is ineligible for medical assistance for nursing facility services, a level of care in any institution equivalent to that of nursing facility services, and home- and community-based waiver services during the period beginning on the first day of the first month during or after which assets were transferred for less than fair market value and which does not occur in any other periods of ineligibility under this rule and equal to the number of months specified in 75.23(3).

b. If a noninstitutionalized individual or the spouse of the individual disposed of assets for less than fair market value on or after the look-back date specified in 75.23(2), the individual is ineligible for medical assistance for home health care services, home and community care for functionally disabled elderly individuals, personal care services, and other long-term care services during the period beginning on the first day of the first month during or after which assets have been transferred for less than fair market value and which does not occur in any other periods of ineligibility under this rule and equal to the number of months specified in 75.23(3).

75.23(2) Look-back date. The look-back date is the date that is 36 months (or, in the case of payments from a trust or portion of a trust that are treated as assets disposed of by the individual, 60 months) before the date an institutionalized individual is both an institutionalized individual and has applied for medical assistance or the date the noninstitutionalized individual applies for medical assistance.

75.23(3) Period of ineligibility. The number of months of ineligibility shall be equal to the total cumulative uncompensated value of all assets transferred by the individual (or the individual's spouse) on or after the look-back date specified in 75.23(2), divided by the statewide average private pay rate for nursing facility services at the time of application. The statewide average private pay rate for nursing facility services is set forth at 75.15(2)“b.”

75.23(4) Reduction of period of ineligibility. The number of months of ineligibility otherwise determined with respect to the disposal of an asset shall be reduced by the months of ineligibility applicable to the individual prior to a change in institutional status.

75.23(5) Exceptions. An individual shall not be ineligible for medical assistance, under this rule, to the extent that:

a. The assets transferred were a home and title to the home was transferred to either:

- (1) A spouse of the individual.
- (2) A child who is under the age of 21 or is blind or permanently and total disabled as defined in 42 U.S.C. section 1382c.

(3) A sibling of the individual who has an equity interest in the home and who was residing in the individual's home for a period of at least one year immediately before the individual became institutionalized.

(4) A son or daughter of the individual who was residing in the individual's home for a period of at least two years immediately before the date of institutionalization and who provided care to the individual which permitted the individual to reside at home rather than in an institution or facility.

b. The assets were transferred:

(1) To the individual's spouse or to another for the sole benefit of the individual's spouse.

(2) From the individual's spouse to another for the sole benefit of the individual's spouse.

(3) To a trust established solely for the benefit of a child who is blind or permanently and totally disabled as defined in 42 U.S.C. section 1382c.

(4) To a trust established solely for the benefit of an individual under 65 years of age who is disabled as defined in 42 U.S.C. section 1382c.

c. A satisfactory showing is made that:

(1) The individual intended to dispose of the assets either at fair market value, or for other valuable consideration.

(2) The assets were transferred exclusively for a purpose other than to qualify for medical assistance.

(3) All assets transferred for less than fair market value have been returned to the individual.

d. The denial of eligibility would work an undue hardship as set forth in 75.15(3).

75.23(6) *Assets held in common.* In the case of an asset held by an individual in common with another person or persons in a joint tenancy, tenancy in common, or similar arrangement, the asset, or the affected portion of the asset, shall be considered to be transferred by the individual when any action is taken, either by the individual or by any other person, that reduces or eliminates the individual's ownership or control of the asset.

75.23(7) *Transfer by spouse.* In the case of a transfer by a spouse of an individual which results in a period of ineligibility for medical assistance under the state plan for the individual, the period of ineligibility shall be apportioned between the individual and the individual's spouse if the spouse otherwise becomes eligible for medical assistance under the state plan. The remaining penalty period shall be evenly divided on a monthly basis, with any remaining month of penalty (prorated as a half month to each spouse) applied to the spouse who initiated the transfer action.

If a spouse subsequently dies prior to the end of the penalty period, the remaining penalty period shall be applied to the surviving spouse's period of ineligibility.

75.23(8) *Definitions.* In this rule the following definitions apply:

"*Assets*" shall include all income and resources of the individual and the individual's spouse, including any income or resources which the individual or the individual's spouse is entitled to but does not receive because of action by:

1. The individual or the individual's spouse.

2. A person, including a court or administrative body, with legal authority to act in place of or on behalf of the individual or the individual's spouse.

3. Any person, including any court or administrative body, acting at the direction or upon the request of the individual or the individual's spouse.

"*Income*" shall be defined by 42 U.S.C. section 1382a.

"*Institutionalized individual*" shall mean an individual who is an inpatient in a nursing facility, who is an inpatient in a medical institution and with respect to whom payment is made based on a level of care provided in a nursing facility or who is eligible for home- and community-based waiver services.

"*Resources*" shall be defined by 42 U.S.C. section 1382b without regard (in the case of an institutionalized individual) to the exclusion of the home and land appertaining thereto.

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

441—75.24(249A) Treatment of trusts established after August 10, 1993. For purposes of determining an individual's eligibility for, or the amount of, medical assistance benefits, trusts established after August 10, 1993, (except for trusts specified in 75.24(3)) shall be treated in accordance with 75.24(2).

75.24(1) Establishment of trust.

a. For the purposes of this rule, an individual shall be considered to have established a trust if assets of the individual were used to form all or part of the principal of the trust and if any of the following individuals established the trust other than by will: The individual, the individual's spouse, a person (including a court or administrative body, with legal authority to act in place of or on behalf of the individual or the individual's spouse), or a person (including a court or administrative body) acting at the direction or upon the request of the individual or the individual's spouse.

b. The term "assets," with respect to an individual, includes all income and resources of the individual and of the individual's spouse, including any income or resources which the individual or the individual's spouse is entitled to but does not receive because of action by the individual or the individual's spouse, by a person (including a court or administrative body, with legal authority to act in place of or on behalf of the individual's spouse), or by any person (including a court or administrative body) acting at the direction or upon the request of the individual or the individual's spouse.

c. In the case of a trust, the principal of which includes assets of an individual and assets of any other person or persons, the provisions of this rule shall apply to the portion of the trust attributable to the individual.

d. This rule shall apply without regard to:

- (1) The purposes for which a trust is established.
- (2) Whether the trustees have or exercise any discretion under the trust.
- (3) Any restrictions on when or whether distribution may be made for the trust.
- (4) Any restriction on the use of distributions from the trust.

e. The term "trust" includes any legal instrument or device that is similar to a trust, including a conservatorship.

75.24(2) Treatment of revocable and irrevocable trusts.

a. In the case of a revocable trust:

- (1) The principal of the trust shall be considered an available resource.
- (2) Payments from the trust to or for the benefit of the individual shall be considered income of the individual.
- (3) Any other payments from the trust shall be considered assets disposed of by the individual, subject to the penalties described at rule 441—75.23(249A) and 441—Chapter 89.

b. In the case of an irrevocable trust:

(1) If there are any circumstances under which payment from the trust could be made to or for the benefit of the individual, the portion of the principal from which, or the income on the principal from which, payment to the individual could be made shall be considered an available resource to the individual and payments from that principal or income to or for the benefit of the individual shall be considered income to the individual. Payments for any other purpose shall be considered a transfer of assets by the individual subject to the penalties described at rule 441—75.23(249A) and 441—Chapter 89.

(2) Any portion of the trust from which, or any income on the principal from which, no payment could under any circumstances be made to the individual shall be considered, as of the date of establishment of the trust (or, if later, the date on which payment to the individual was foreclosed) to be assets disposed of by the individual subject to the penalties specified at 75.23(3) and 441—Chapter 89. The value of the trust shall be determined for this purpose by including the amount of any payments made from this portion of the trust after this date.

75.24(3) Exceptions. This rule shall not apply to any of the following trusts:

a. A trust containing the assets of an individual under the age of 65 who is disabled (as defined in section 1614(a)(3) of the Social Security Act) and which is established for the benefit of the individual by a parent, grandparent, legal guardian of the individual, or a court if the

state will receive all amounts remaining in the trust upon the death of the individual up to an amount equal to the total medical assistance paid on behalf of the individual.

b. A trust established for the benefit of an individual if the trust is composed only of pension, social security, and other income to the individual (and accumulated income of the trust), and the state will receive all amounts remaining in the trust upon the death of the individual up to the amount equal to the total medical assistance paid on behalf of the individual.

c. A trust containing the assets of an individual who is disabled (as defined in 1614(a)(3) of the Social Security Act) that meets the following conditions:

(1) The trust is established and managed by a nonprofit association.

(2) A separate account is maintained for each beneficiary of the trust, but, for purposes of investment and management of funds, the trust pools these accounts.

(3) Accounts in the trust are established solely for the benefit of individuals who are disabled (as defined in 1614(a)(3) of the Social Security Act) by the parent, grandparent, or legal guardian of the individuals, by the individuals or by a court.

(4) To the extent that amounts remaining in the beneficiary's account upon death of the beneficiary are not retained by the trust, the trust pays to the state from the remaining amounts in the account an amount equal to the total amount of medical assistance paid on behalf of the beneficiary.

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

441—75.25(249A) Definitions.

"FIP-related" shall mean those persons whose eligibility is derived from regulations governing the family investment program (FIP).

"Aged" shall mean a person 65 years of age or older.

"Applicant" shall mean a person who is requesting assistance on the person's own behalf or on behalf of another person. This includes parents living in the home with the children and the nonparental relative who is requesting assistance for the children.

"Blind" shall mean a person with central visual acuity of 20/200 or less in the better eye with use of corrective lens or visual field restriction to 20 degrees or less.

"Client" shall mean an applicant for or a recipient of Medicaid.

"Community spouse" shall mean a spouse of an institutionalized spouse for the purposes of rules 441—75.5(249A), 441—75.15(249A), 441—75.16(249A), and 441—76.10(249A).

"Coverage group" shall mean a group of persons who meet certain common eligibility requirements.

"Disabled" shall mean a person who is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which has lasted or is expected to last for a continuous period of not less than 12 months from the date of application.

"Group health insurance" shall mean any plan of, or contributed by an employer (including a self-insured plan) to provide health care (directly or otherwise) to the employer's employees, former employees, or the families of the employees or former employees.

"Health insurance" shall mean protection which provides payment of benefits for covered sickness or injury.

"Institutionalized person" shall mean a person who is an inpatient in a nursing facility or a Medicare-certified skilled nursing facility, who is an inpatient in a medical institution and for whom payment is made based on a level of care provided in a nursing facility, or who is a person described in 75.1(18) for the purposes of rules 441—75.5(249A) and 441—75.15(249A).

"Institutionalized spouse" shall mean a married person living in a medical institution, or nursing facility, or home- and community-based waiver setting who is likely to remain living in these circumstances for at least 30 consecutive days, and whose spouse is not in a medical institution or nursing facility for the purposes of rules 441—75.5(249A), 441—75.15(249A), 441—75.16(249A), and 441—76.10(249A).

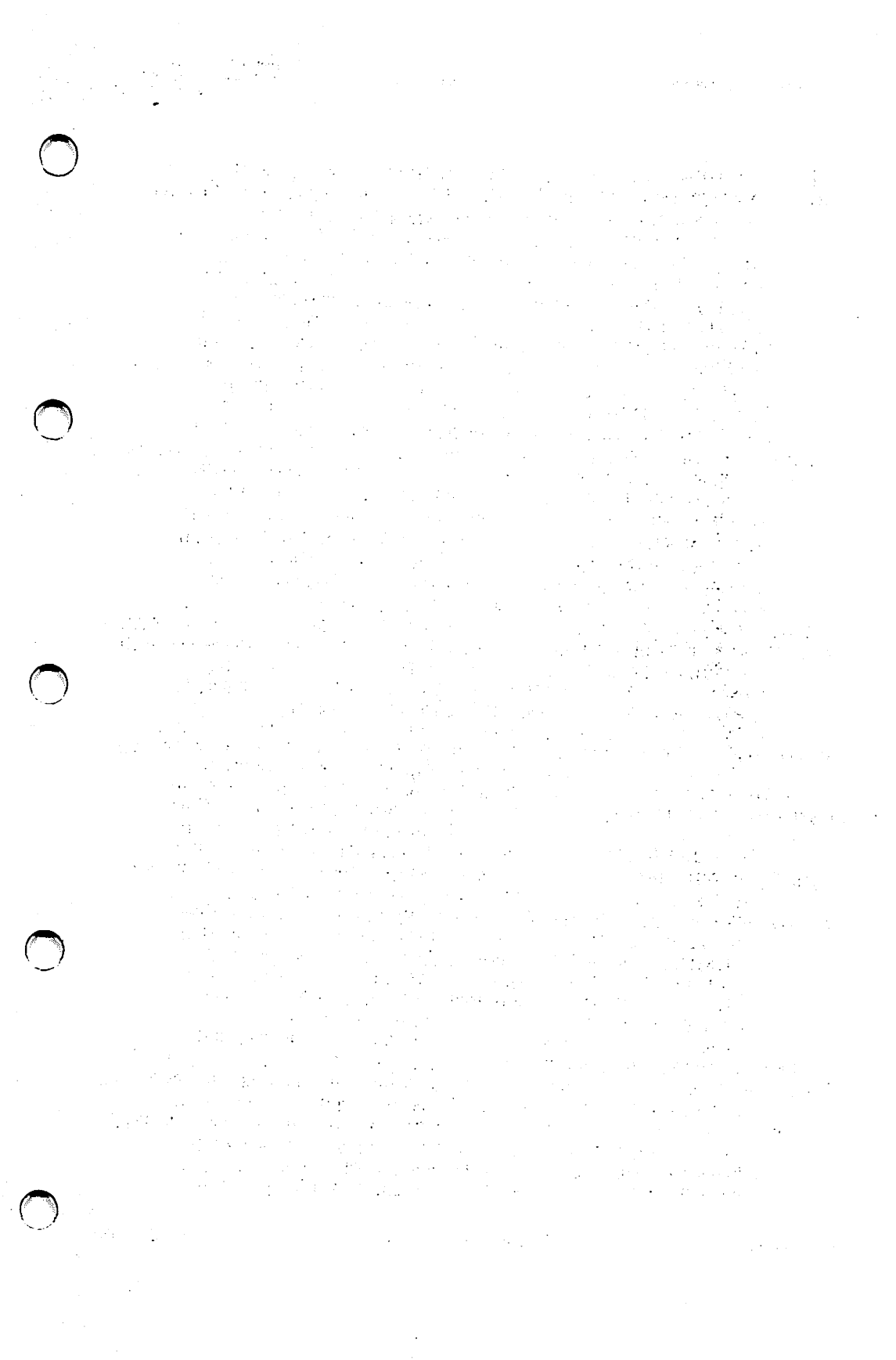
"Local office" shall mean the county office of the department of human services or the mental health institute or hospital school.

"Nursing facility services" shall mean the level of care provided in a medical institution licensed for nursing services or skilled nursing services for the purposes of rule 441—75.15(249A).

- [Filed 3/16/90, Notice 2/7/90—published 4/4/90, effective 6/1/90]
- [Filed 4/13/90, Notice 3/7/90—published 5/2/90, effective 7/1/90]
- [Filed emergency 6/13/90—published 7/11/90, effective 6/14/90]
- [Filed emergency 6/20/90 after Notice 4/18/90—published 7/11/90, effective 7/1/90]
- [Filed 7/13/90, Notice 5/16/90—published 8/8/90, effective 10/1/90]
- [Filed emergency 8/16/90 after Notice of 6/27/90—published 9/5/90, effective 10/1/90]
- [Filed 8/16/90, Notices 6/13/90, 7/11/90—published 9/5/90, effective 11/1/90]
- [Filed emergency 12/13/90—published 1/9/91, effective 1/1/91]
- [Filed 2/14/91, Notice 1/9/91—published 3/6/91, effective 5/1/91]
- [Filed emergency 3/14/91—published 4/3/91, effective 3/14/91]
- [Filed 3/14/91, Notice 1/23/91—published 4/3/91, effective 6/1/91]
- [Filed emergency 4/11/91—published 5/1/91, effective 4/11/91]
- [Filed 4/11/91, Notice 2/20/91—published 5/1/91, effective 7/1/91]
- [Filed emergency 5/17/91 after Notice of 4/3/91—published 6/12/91, effective 7/1/91]
- [Filed 5/17/91, Notices 4/3/90—published 6/12/91, effective 8/1/91]
- [Filed emergency 6/14/91 after Notice 5/1/91—published 7/10/91, effective 7/1/91]
- [Filed 7/10/91, Notice 5/29/91—published 8/7/91, effective 10/1/91]
- [Filed 8/8/91, Notice 6/26/91—published 9/4/91, effective 11/1/91]
- [Filed emergency 9/18/91 after Notice 4/17/91—published 10/16/91, effective 10/1/91]
- [Filed 9/18/91, Notice 7/10/91—published 10/16/91, effective 12/1/91]
- [Filed emergency 12/11/91—published 1/8/92, effective 1/1/92]
- [Filed emergency 12/11/91 after Notice 10/30/91—published 1/8/92, effective 1/1/92]
- [Filed 12/11/92, Notice 10/16/91—published 1/8/92, effective 3/1/92]*
- [Filed 1/15/92, Notice 11/13/91—published 2/5/92, effective 4/1/92]
- [Filed 2/13/92, Notices 1/8/92—published 3/4/92, effective 5/1/92]
- [Filed emergency 4/15/92—published 5/13/92, effective 4/16/92]
- [Filed emergency 4/16/92 after Notice 2/19/92—published 5/13/92, effective 5/1/92]
- [Filed emergency 5/14/92 after Notice 3/18/92—published 6/10/92, effective 7/1/92]
- [Filed 5/14/92, Notices 3/18/92—published 6/10/92, effective 8/1/92]
- [Filed 6/11/92, Notice 4/29/92—published 7/8/92, effective 9/1/92]
- [Filed emergency 9/11/92—published 9/30/92, effective 10/1/92]
- [Filed 10/15/92, Notice 8/19/92—published 11/11/92, effective 1/1/93]
- [Filed 11/10/92, Notice 9/30/92—published 12/9/92, effective 2/1/93]
- [Filed emergency 12/1/92—published 12/23/92, effective 1/1/93]
- [Filed emergency 1/14/93 after Notice 10/28/92—published 2/3/93, effective 2/1/93]
- [Filed 1/14/93, Notices 10/28/92, 11/25/92, 12/9/92—published 2/3/93, effective 4/1/93]
- [Filed 2/10/93, Notice 12/23/92—published 3/3/93, effective 5/1/93]
- [Filed 4/15/93, Notice 2/17/93—published 5/12/93, effective 7/1/93]
- [Filed emergency 6/11/93—published 7/7/93, effective 7/1/93]
- [Filed emergency 6/11/93 after Notice 4/28/93—published 7/7/93, effective 7/1/93]
- [Filed 7/14/93, Notice 5/12/93—published 8/4/93, effective 10/1/93]
- [Filed 8/12/93, Notice 7/7/93—published 9/1/93, effective 11/1/93]
- [Filed emergency 9/17/93—published 10/13/93, effective 10/1/93]
- [Filed 9/17/93, Notice 7/21/93—published 10/13/93, effective 12/1/93]
- [Filed emergency 11/12/93—published 12/8/93, effective 1/1/94]
- [Filed emergency 12/16/93—published 1/5/94, effective 1/1/94]
- [Filed without Notice 12/16/93—published 1/5/94, effective 2/9/94]
- [Filed 12/16/93, Notices 10/13/93, 10/27/93—published 1/5/94, effective 3/1/94]
- [Filed 2/10/94, Notices 12/8/93, 1/5/94—published 3/2/94, effective 5/1/94]

‡Two or more ARCs

*Effective date of 3/1/92 delayed until adjournment of the 1992 General Assembly by the Administrative Rules Review Committee at its meeting held February 3, 1992.



other states shall be eligible to participate if they are duly licensed in that state and are certified as a certified registered nurse practitioner. Certified registered nurse anesthetists who have been certified eligible to participate in Medicare will be considered as having met the above-stated guidelines.

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

441—77.32(249A) Hospice providers. Hospice providers are eligible to participate in the Medicaid program providing they are certified to participate in the Medicare program.

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

441—77.33(249A) Elderly waiver service providers. The following waiver service providers shall be eligible to participate in the Medicaid program provided that they meet the standards set forth below:

77.33(1) Adult day care providers. Adult day care providers shall:

a. Rescinded IAB 3/2/94, effective 3/1/94.

b. Meet one of the following sets of standards individually or as an integral service provided by an organization:

(1) Joint Commission on Accreditation of Health Care Organizations.

(2) Commission on Accreditation of Rehabilitation Agencies.

(3) Standards set forth in rule 441—171.5(234).

(4) Standards set forth in department of elder affairs rules 321—24.1(231) to 321—24.8(231).

77.33(2) Emergency response system providers. Emergency response system providers must meet the following standards:

a. The agency shall provide an electronic component to transmit a coded signal via digital equipment over telephone lines to a central monitoring station. The central monitoring station must operate receiving equipment and be fully staffed by trained attendants, 24 hours a day, seven days per week. The attendants must process emergency calls and ensure the timely notification of appropriate emergency resources to be dispatched to the person in need.

b. The agency, parent agency, institution or corporation shall have the necessary legal authority to operate in conformity with federal, state and local laws and regulations.

c. There shall be a governing authority which is responsible for establishing policy and ensuring effective control of services and finances. The governing authority shall employ or contract for an agency administrator to whom authority and responsibility for overall agency administration are delegated.

d. The agency or institution shall be in compliance with all legislation relating to prohibition of discriminatory practices.

e. There shall be written policies and procedures established to explain how the service operates, agency responsibilities, client responsibilities and cost information.

77.33(3) Home health aide providers. Home health aide providers shall be agencies which meet the standards set forth in department of public health rules 641—80.3(135), 641—80.4(135) and 641—80.5(135) or which are certified to participate in the Medicare program as home health agencies.

77.33(4) Homemaker providers. Homemaker providers shall be agencies which meet the standards and requirements set forth in department of public health rules 641—80.3(135), 641—80.4(135) and 641—80.5(135) or which are certified as a home health agency under Medicare.

77.33(5) Nursing care. Nursing care providers shall be agencies which are certified to participate in the Medicare program as home health agencies.

77.33(6) Respite care providers. The following providers may provide respite care:

a. Home health aide providers meeting the conditions of participation set forth in 77.33(3).

b. Nursing facilities and hospitals certified to participate in the Medicaid program.

c. Camps accredited by the American Camping Association.

d. Respite providers certified under the HCBS/MR and HCBS/MR/OBRA waivers.

77.33(7) *Chore providers.* The following providers may provide chore services:

a. Area agencies on aging as designated in 321—4.4(231). Chore providers subcontracting with area agencies on aging or with letters of approval from the area agencies on aging stating the organization is qualified to provide chore services may also provide chore services.

b. Community action agencies as designated in Iowa Code section 216A.93.

c. Home health aide providers meeting the standards set forth in subrule 77.33(3). Home health aide providers contracting with the department of public health shall be considered to have met these standards.

d. Nursing facilities licensed pursuant to Iowa Code chapter 135C.

e. Providers certified under the HCBS/MR or HCBS/MR/OBRA waivers.

77.33(8) *Home delivered meals.* The following providers may provide home delivered meals:

a. Area agencies on aging as designated in 321—4.4(231). Home delivered meals providers subcontracting with area agencies on aging or with letters of approval from the area agencies on aging stating the organization is qualified to provide home delivered meals services may also provide home delivered meals services.

b. Community action agencies as designated in Iowa Code section 216A.93.

c. Nursing facilities licensed pursuant to Iowa Code chapter 135C.

d. Restaurants licensed and inspected under Iowa Code chapter 137B.

e. Hospitals enrolled as Medicaid providers.

f. Home health aide providers meeting the standards set forth in subrule 77.33(3). Home health aide providers contracting with the department of public health shall be considered to have met these standards.

77.33(9) *Home and vehicle modification providers.* The following providers may provide home and vehicle modification:

a. Area agencies on aging as designated in 321—4.4(231). Home and vehicle modification providers subcontracting with area agencies on aging or with letters of approval from the area agencies on aging stating the organization is qualified to provide home and vehicle modification services may also provide home and vehicle modification services.

b. Community action agencies as designated in Iowa Code section 216A.93.

c. Home and vehicle modification providers certified under the HCBS/MR or HCBS/MR/OBRA waivers.

77.33(10) *Mental health outreach providers.* Community mental health centers enrolled as Medicaid providers may provide mental health outreach services.

77.33(11) *Transportation providers.* The following providers may provide transportation:

a. Area agencies on aging as designated in 321—4.4(231). Transportation providers subcontracting with area agencies on aging or with letters of approval from the area agencies on aging stating the organization is qualified to provide transportation services may also provide transportation services.

b. Community action agencies as designated in Iowa Code section 216A.93.

c. Regional transit agencies as recognized by the Iowa department of transportation.

d. Providers with purchase of service contracts to provide transportation pursuant to 441—Chapter 150.

e. Nursing facilities licensed pursuant to Iowa Code chapter 135C.

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

441—77.34(249A) *AIDS/HIV waiver service providers.* The following AIDS/HIV waiver service providers shall be eligible to participate in the Medicaid program provided that they meet the standards set forth below:

77.34(1) *Counseling providers.* Counseling providers shall be:

a. Agencies which are certified under the standards established by the Iowa mental health authority, set forth in 441—Chapter 33.

- [Filed emergency 12/15/89 after Notice of 10/4/89—published 1/10/90, effective 1/1/90]
 - [Filed 4/13/90, Notice 11/29/90—published 5/2/90, effective 8/1/90]
 - [Filed 7/13/90, Notice 5/16/90—published 8/8/90, effective 10/1/90]
 - [Filed 10/12/90, Notice 8/8/90—published 10/31/90, effective 2/1/91]
 - [Filed emergency 1/17/91—published 2/6/91, effective 2/1/91]
 - [Filed 1/17/91, Notice 11/14/90—published 2/6/91, effective 4/1/91]
 - [Filed 3/14/91, Notice 2/6/91—published 4/3/91, effective 6/1/91]
 - [Filed 6/14/91, Notice 5/1/91—published 7/10/91, effective 9/1/91]
 - [Filed 7/10/91, Notice 5/29/91—published 8/7/91, effective 10/1/91]
 - [Filed 9/18/91, Notice 7/10/91—published 10/16/91, effective 12/1/91]
- [Filed emergency 1/16/92 after Notice 11/27/91—published 2/5/92, effective 3/1/92]
- [Filed emergency 5/13/92 after Notice 4/1/92—published 6/10/92, effective 5/14/92]
 - [Filed emergency 6/12/92—published 7/8/92, effective 7/1/92]
 - [Filed 8/14/92, Notice 7/8/92—published 9/2/92, effective 11/1/92]
 - [Filed 9/11/92, Notice 7/8/92—published 9/30/92, effective 12/1/92]
- [Filed emergency 7/13/93 after Notice 5/12/93—published 8/4/93, effective 8/1/93]
 - [Filed without Notice 8/12/93—published 9/1/93, effective 11/1/93]
 - [Filed 8/12/93, Notices 4/28/93, 7/7/93—published 9/1/93, effective 11/1/93]
- [Filed emergency 12/16/93 after Notice 10/27/93—published 1/5/94, effective 1/1/94]
 - [Filed 12/16/93, Notice 9/1/93—published 1/5/94, effective 3/1/94]
- [Filed emergency 2/10/94 after Notice 1/5/94—published 3/2/94, effective 3/1/94]

The first part of the report deals with the general situation in the country. It is noted that the economy is in a state of stagnation and that the government has failed to implement the necessary reforms. The report also mentions that the political situation is unstable and that there is a need for a more democratic system.

The second part of the report discusses the social and cultural aspects of the country. It is noted that there is a high level of illiteracy and that the majority of the population is engaged in agriculture. The report also mentions that there is a need for more social services and that the government should focus on improving the living standards of the people.

The third part of the report discusses the international relations of the country. It is noted that the country has a long history of being a member of the United Nations and that it has a good relationship with its neighbors.

78.41(6) Home health aide services. Home health aide services are personal or direct care services provided to the consumer which are not payable under Medicaid as set forth in rule 441—78.9(249A). Services shall include unskilled medical services and shall exceed those services provided under HCBS/MR or HCBS/MR/OBRA supported community living. Instruction, supervision, support or assistance in personal hygiene, bathing, and daily living shall be provided under supported community living.

a. Services shall be ordered by the consumer's physician and included in the individual comprehensive plan.

b. A unit is one hour.

c. A maximum of 14 units are available per week.

78.41(7) Supported employment services. Supported employment services are those services of instruction, supervision and assistance associated with attaining and maintaining paid employment.

a. The components of the service are instructional activities to obtain a job, initial instructional activities on the job, enclave settings as defined in paragraph "i," and follow-along. The service consists of:

(1) Paid employment for persons for whom competitive employment at or above the minimum wage is unlikely, and who, because of their disabilities, need intensive ongoing support to perform in a work setting.

(2) Employment-related adaptations required to assist the consumer within the employment setting.

(3) Transportation, when provided between the consumer's place of residence and the supported employment site or between sites (in situations where the consumer receives the services in more than one place). Ordinary forms of community transportation (car pools, coworkers, self or public transportation) should be attempted before the service provider provides transportation.

b. Individualized or dispersed placements are the preferred service model.

c. The majority of coworkers within the employment site which has more than two employees shall be persons without disabilities. Daily contact shall be provided in the immediate work-site with other employees or the general public who do not have disabilities.

d. The individual and dispersed placement services shall provide individualized and indefinite follow-along support contacts at regular intervals with the consumer to promote successful job retention. A minimum of two contacts per month is required. As appropriate, contact at regular intervals shall be made with the employer and significant others. Contacts shall be documented.

e. Documentation shall be maintained in the file of each supported employment consumer that this service is not available under a program funded under the Rehabilitation Act of 1973 or P. L. 94-142.

f. Services shall be ordered by the consumer's physician and identified in the individual comprehensive plan.

g. Instructional activities to obtain a job. Reimbursement is available for instructional activities provided to the consumer and supported employment development activities associated with obtaining supported employment for the consumer.

(1) A unit is one day.

(2) A maximum of five units per week are available for a maximum of 16 weeks (80 units).

h. Initial instructional activities on job. Reimbursement is available for instructional activities associated with initial job training needs for consumers within individual, dispersed supported employment settings.

(1) A unit is one hour.

(2) A maximum of 40 units are available per week for 16 weeks (640 units).

i. Enclave settings. Reimbursement is available for activities associated with sustaining consumers within an enclave supported employment setting of two to eight persons with disabilities.

(1) A unit is one hour.

(2) A maximum of 40 units are available per week.

j. Follow-along. Reimbursement is available for maintenance and follow-along activities which include individualized ongoing support activities required to sustain the consumer in the supported employment setting.

(1) A unit is one calendar month.

(2) A maximum of 12 units are available per state fiscal year.

k. Changes in the consumer's supported employment service or support needs shall be reflected in the individual comprehensive plan. Changes in the supported employment service model will result in changes in reimbursement on a quarterly basis.

l. Supported employment services shall not be simultaneously reimbursed with other supported employment, work activity, or sheltered work services, or with Medicaid, HCBS/MR, or HCBS/MR/OBRA respite, nursing or home health aide services.

m. Rescinded IAB 3/2/94, effective 3/1/94.

441—78.42(249A) Rehabilitative treatment services. Payment will be made for rehabilitative treatment services as described in 441—Chapter 185, Divisions II to V, when the rehabilitative treatment services have been authorized by the clinical assessment team (CACT) under the provisions set forth in rules 441—185.5(234) and 441—185.6(234) and when provided by providers certified as described in rules 441—185.9(234) to 441—185.11(234).

These rules are intended to implement Iowa Code section 249A.4 and 1991 Iowa Acts, chapter 267, section 103, subsection 4, and section 130, subsection 3.

[Filed 3/11/70; amended 3/20/74]

[Filed 11/25/75, Notice 10/6/75—published 12/15/75, effective 1/19/76]

[Filed emergency 12/23/75—published 1/12/76, effective 2/1/76]

[Filed emergency 1/16/76—published 2/9/76, effective 2/1/76]

[Filed emergency 1/29/76—published 2/9/76, effective 1/29/76]

[Filed 4/30/76, Notice 3/22/76—published 5/17/76, effective 6/21/76]

[Filed emergency 6/9/76—published 6/28/76, effective 6/9/76]

[Filed 6/25/76, Notice 5/17/76—published 7/12/76, effective 8/16/76]

[Filed emergency 12/17/76—published 1/12/77, effective 1/1/77]

[Filed 2/25/77, Notice 1/12/77—published 3/23/77, effective 4/27/77]

[Filed emergency 4/13/77—published 5/4/77, effective 4/13/77]

[Filed emergency 7/20/77—published 8/10/77, effective 7/20/77]

[Filed emergency 8/24/77—published 9/21/77, effective 8/26/77]

[Filed emergency 9/1/77—published 9/21/77, effective 9/1/77]

[Filed 11/22/77, Notice 9/7/77—published 12/14/77, effective 2/1/78]

[Filed 12/6/77, Notice 10/19/77—published 12/28/77, effective 2/1/78]

[Filed 1/16/78, Notice 11/30/77—published 2/8/78, effective 4/1/78]

[Filed 3/27/78, Notice 2/8/78—published 4/19/78, effective 5/24/78]

[Filed without Notice 3/31/78—published 4/19/78, effective 7/1/78]

[Filed emergency 6/9/78—published 6/28/78, effective 7/5/78]

[Filed emergency 6/28/78—published 7/26/78, effective 7/1/78]

[Filed 8/9/78, Notice 6/28/78—published 9/6/78, effective 10/11/78]

[Filed 8/18/78, Notice 5/31/78—published 9/6/78, effective 10/11/78]

[Filed 9/12/78, Notice 4/19/78—published 10/4/78, effective 11/8/78]

[Filed 9/12/78, Notice 7/26/78—published 10/4/78, effective 12/1/78]

[Filed 11/20/78, Notice 10/4/78—published 12/13/78, effective 1/17/79]

[Filed 12/6/78, Notice 10/4/78—published 12/27/78, effective 2/1/79]

[Filed 12/6/78, Notice 5/31/78—published 12/27/78, effective 2/1/79]

[Filed 1/4/79, Notice 11/29/78—published 1/24/79, effective 3/1/79]

[Filed emergency 1/31/79—published 2/21/79, effective 3/8/79]

[Filed 3/30/79, Notice 2/21/79—published 4/18/79, effective 6/1/79]

[Filed 7/3/79, Notice 4/18/79—published 7/25/79, effective 8/29/79]

- [Filed 1/17/90, Notice 8/23/89—published 2/7/90, effective 4/1/90]*
 - [Filed emergency 2/14/90—published 3/7/90, effective 2/14/90]
- [Filed 3/16/90, Notices 11/15/89, 1/24/90, 2/7/90—published 4/4/90, effective 6/1/90]
 - [Filed 4/13/90, Notice 3/7/90—published 5/2/90, effective 7/1/90]
 - [Filed 4/13/90, Notice 11/29/89—published 5/2/90, effective 8/1/90]
 - [Filed emergency 6/20/90—published 7/11/90, effective 7/1/90]
- [Filed 7/13/90, Notices 5/16/90, 5/30/90—published 8/8/90, effective 10/1/90]
 - [Filed 8/16/90, Notice 7/11/90—published 9/5/90, effective 11/1/90]
- [Filed 9/28/90, Notices 7/11/90, 7/25/90, 8/8/90—published 10/17/90, effective 12/1/90]
 - [Filed 10/12/90, Notice 7/11/90—published 10/31/90, effective 1/1/91]
 - [Filed 10/12/90, Notice 8/8/90—published 10/31/90, effective 2/1/91]
- [Filed 11/16/90, Notices 9/19/90, 10/3/90—published 12/12/90, effective 2/1/91]
 - [Filed 12/13/90, Notice 10/31/90—published 1/9/91, effective 3/1/91]
 - [Filed emergency 1/17/91—published 2/6/91, effective 2/1/91]
- [Filed 1/17/91, Notices 11/14/90, 11/28/90—published 2/6/91, effective 4/1/91]**
 - [Filed emergency 2/22/91—published 3/20/91, effective 3/1/91]
 - [Filed 3/14/91, Notice 2/6/91—published 4/3/91, effective 6/1/91]
 - [Filed 4/11/91, Notice 3/6/91—published 5/1/91, effective 7/1/91]
 - [Filed emergency 6/14/91—published 7/10/91, effective 7/1/91]
 - [Filed 6/14/91, Notice 3/20/91—published 7/10/91, effective 9/1/91]
 - [Filed 7/10/91, Notice 5/29/91—published 8/7/91, effective 10/1/91]
- [Filed 9/18/91, Notices 7/10/91, 7/24/91—published 10/16/91, effective 12/1/91]
 - [Filed 12/11/91, Notice 10/16/91—published 1/8/92, effective 3/1/92]
 - [Filed 12/11/91, Notice 10/30/91—published 1/8/92, effective 3/1/92]
- [Filed emergency 1/16/92 after Notice 11/27/91—published 2/5/92, effective 3/1/92]***
 - [Filed 2/13/92, Notice 1/8/92—published 3/4/92, effective 5/1/92]
 - [Filed emergency 4/15/92—published 5/13/92, effective 4/16/92]
 - [Filed emergency 6/12/92—published 7/8/92, effective 7/1/92]
- [Filed 6/11/92, Notices 3/18/92, 4/29/92—published 7/8/92, effective 9/1/92]
 - [Filed emergency 7/17/92—published 8/5/92, effective 8/1/92]
 - [Filed 7/17/92, Notices 5/27/92—published 8/5/92, effective 10/1/92]
 - [Filed emergency 8/14/92—published 9/2/92, effective 9/1/92]
- [Filed 8/14/92, Notice 6/24/92, 7/8/92, 8/5/92—published 9/2/92, effective 11/1/92]
 - [Filed emergency 9/11/92—published 9/30/92, effective 10/1/92]
- [Filed 9/11/92, Notices 7/8/92, 8/5/92—published 9/30/92, effective 12/1/92]
 - [Filed 9/11/92, Notice 8/5/92—published 9/30/92, effective 1/1/93]
- [Filed 10/15/92, Notices 8/19/92, 9/2/92—published 11/11/92, effective 1/1/93]
 - [Filed emergency 11/10/92—published 12/9/92, effective 11/10/92]
 - [Filed 11/10/92, Notice 9/30/92—published 12/9/92, effective 2/1/93]
- [Filed 1/14/93, Notices 10/28/92, 11/25/92—published 2/3/93, effective 4/1/93]
 - [Filed emergency 4/15/93 after Notice 3/3/93—published 5/12/93, effective 5/1/93]
 - [Filed 4/15/93, Notice 3/3/93—published 5/12/93, effective 7/1/93]
- [Filed emergency 5/14/93 after Notice 3/31/93—published 6/9/93, effective 6/1/93]
 - [Filed 5/14/93, Notice 3/31/93—published 6/9/93, effective 8/1/93]

NOTE: History for Ch 78 continued on next page.

*Effective date of 4/1/90 delayed 70 days by the Administrative Rules Review Committee at its March 12, 1990, meeting; delay lifted by this Committee, effective May 11, 1990.

**Effective date of 4/1/91 delayed until adjournment of the 1991 session of the General Assembly by the Administrative Rules Review Committee at its meeting held February 12, 1991.

***Effective date of 3/1/92 delayed until adjournment of the 1992 General Assembly by the Administrative Rules Review Committee at its meeting held February 3, 1992.

∅ Two ARCs

- [Filed emergency 6/11/93—published 7/7/93, effective 7/1/93]
- [Filed emergency 7/13/93 after Notice 5/12/93—published 8/4/93, effective 8/1/93]
- [Filed emergency 7/14/93—published 8/4/93, effective 8/1/93]
- [Filed without Notice 8/12/93—published 9/1/93, effective 11/1/93]
- [Filed 8/12/93, Notice 7/7/93—published 9/1/93, effective 11/1/93]
- [Filed 9/17/93, Notice 8/4/93—published 10/13/93, effective 12/1/93]
- [Filed 10/14/93, Notice 8/18/93—published 11/10/93, effective 1/1/94]
- [Filed 11/12/93, Notice 9/15/93—published 12/8/93, effective 2/1/94]
- [Filed emergency 12/16/93 after Notice 10/13/93—published 1/5/94, effective 1/1/94]
- [Filed 12/16/93, Notice 9/1/93—published 1/5/94, effective 3/1/94]
- [Filed 1/12/94, Notice 11/10/93—published 2/2/94, effective 4/1/94]
- [Filed emergency 2/10/94 after Notice 12/22/93—published 3/2/94, effective 3/1/94]

DIVISION II—ELDERLY WAIVER SERVICES

441—83.21(249A) Definitions.

“*Client participation*” means the amount of the recipient income that the person must contribute to the cost of elderly waiver services exclusive of medical vendor payments before Medicaid will participate.

“*Deeming*” means the specified amount of spousal income and resources considered in determining eligibility for a spouse according to current supplemental security income guidelines.

“*Interdisciplinary team*” means a collection of persons with varied professional backgrounds who develop one plan of care to meet a client’s need for services.

“*Iowa foundation for medical care*” means the entity designated by the federal government to be the peer review organization for the state of Iowa.

“*Long-term care coordinating unit designated case management project for frail elderly*” means the case management system which conducts interdisciplinary team meetings to develop and update care plans for persons aged 65 and older.

“*Medical institution*” means a nursing facility which has been approved as a Medicaid vendor.

“*Project coordinator*” means the person designated by the administrative entity to oversee the long-term care coordinating unit’s designated case management project for the frail elderly.

“*Third-party payments*” means payments from an attorney, individual, institution, corporation, or public or private agency which is liable to pay part or all of the medical costs incurred as a result of injury, disease or disability by or on behalf of an applicant or a past or present recipient of medical assistance.

441—83.22(249A) Eligibility. To be eligible for elderly waiver services a person must meet certain eligibility criteria and be determined to need a service(s) allowable under the program.

83.22(1) Eligibility criteria. All of the following criteria must be met. The person must be:

- a. Sixty-five years of age or older.
- b. A resident of one of the following counties:

Appanoose	Fayette	Muscatine
Black Hawk	Hamilton	Page
Cerro Gordo	Hancock	Polk
Clarke	Hardin	Ringgold
Clinton	Howard	Scott
Decatur	Jasper	Story
Des Moines	Johnson	Van Buren
Dickinson	Keokuk	Woodbury
Dubuque	Linn	

- c. Eligible for Medicaid if in a medical institution.
- d. Certified as being in need of the intermediate or skilled level of care. The Iowa foundation for medical care shall be responsible for approval of the certification of the level of care. Elderly waiver services will not be provided when the person is an inpatient in a medical institution.
- e. Determined to need services as described in subrule 83.22(2).
- f. Under the case management of a member of the long-term care coordinating unit designated case management project for the frail elderly.
- g. Rescinded IAB 3/2/94, effective 3/1/94.

83.22(2) Need for services.

a. Applicants for elderly waiver services shall have an assessment of the need for service and the availability and appropriateness of service. The tool used to complete the assessment shall be the KanSAS tool. The assessment shall be completed by the designated case management project for the frail elderly in the community or the local service worker. The Iowa foundation for medical care shall be responsible for determining the level of care based on the completed KanSAS Assessment tool and supporting documentation as needed.

b. The total monthly cost of elderly waiver services exclusive of home and vehicle modification shall not exceed the cost of the recipient's level of care provided in a nursing facility. Individual service costs which make up the total monthly cost of waiver services cannot exceed established limits.

Aggregate monthly costs are limited as follows:

<u>Skilled level of care</u>	<u>Intermediate level of care</u>
\$2,480	\$852

83.22(3) Providers—standards. Participants in the waiver shall be case managed by providers who meet all the following standards:

a. Be a member of the long-term care coordinating unit designated case management project for the frail elderly.

b. Have a bachelor's degree in a human services field or be currently licensed as a registered nurse. Up to two years relevant experience may be substituted for two years of the educational requirement.

c. Have formal training in completion of the assessment tool.

d. Receive formal case management training as specified by the long-term care coordinating unit.

441—83.23(249A) Application.

83.23(1) Application for financial eligibility. Application for financial eligibility shall be made by completing the Application for Medical Assistance or State Supplementary Assistance, Form PA-1107-0. The application process as specified in rules 441—76.1(249A) to 441—76.6(249A) shall be followed.

83.23(2) Application for services. Application for services shall be made by completing Form SS-1120-0, Application for Social Services.

83.23(3) Approval of application.

a. Applications for the elderly waiver program shall be processed in 30 days unless the worker can document difficulty in locating and arranging services or circumstances beyond the worker's control. In these cases a decision shall be made as soon as possible.

b. Decisions shall be mailed or given to the applicant on the date when both service and income maintenance eligibility determinations are completed.

c. An applicant must be given the choice between elderly waiver services and institutional care. The service worker shall have the client or guardian complete and sign Part C of Form 470-0660, Home and Community Based Service Report, indicating the client's choice of caregiver.

d. Waiver services provided prior to approval of eligibility for the waiver cannot be paid.

83.23(4) Effective date of eligibility.

a. Rescinded IAB 8/4/93, effective 8/1/93.

b. Eligibility for persons whose income exceeds supplemental security income guidelines shall not exist until the persons require care in a medical institution for a period of 30 consecutive days and shall be effective no earlier than the first day of the month in which the 30-day period begins.

c. Eligibility continues until the recipient has been in a medical institution for 30 consecutive days for other than respite care or fails to meet eligibility criteria listed in rule 441—83.22(249A). Recipients who are inpatients in a medical institution for 30 or more consecutive days for other than respite care shall be terminated from elderly waiver services and reviewed for eligibility for other Medicaid coverage groups. The recipient will be notified of that decision through Form SS-1104-0, Notice of Decision. If the client returns home before the effective date of the notice of decision and the person's condition has not substantially changed, the denial may be rescinded and eligibility may continue.

83.23(5) Attribution of resources. For the purposes of attributing resources as provided in rule 441—75.5(249A), the date on which the waiver applicant met the level of care criteria in a medical institution as established by the peer review organization shall be used as the date of entry to the medical institution. Only one attribution of resources shall be completed per person. Attributions completed for prior institutionalizations shall be applied to the waiver application.

441—83.24(249A) Client participation. Persons must contribute their predetermined client participation to the cost of elderly waiver services.

83.24(1) Computation of client participation. Client participation shall be computed by deducting an amount for the maintenance needs of the individual which is 300 percent of the maximum SSI grant for an individual from the client's total income.

83.24(2) Limitation on payment. If the sum of the third-party payment and client participation equals or exceeds the reimbursement established by the service worker, Medicaid will make no payments for elderly waiver service providers. However, Medicaid will make payments to other medical vendors.

441—83.25(249A) Redetermination. A complete redetermination of eligibility for elderly waiver services shall be done at least once every 12 months.

A redetermination of continuing eligibility factors shall be made when a change in circumstances occurs that affects eligibility in accordance with rule 441—83.22(249A). A redetermination shall contain the components listed in rule 441—83.27(249A).

441—83.26(249A) Allowable services. Services allowable under the elderly waiver are adult day care, emergency response system, homemaker, home health aide, nursing, respite care, chore, home delivered meals, home and vehicle modification, mental health outreach, and transportation, as set forth in rule 441—78.37(249A).

441—83.27(249A) Case plan. A case plan shall be prepared for elderly waiver clients in accordance with rule 441—130.7(234). In addition, the case plan shall include a written certification from the physician that the waiver services are appropriate and adequate to meet the needs of the client in a home environment, the frequency of the elderly waiver services, and the types of providers who will deliver them.

441—83.28(249A) Adverse service actions.

83.28(1) Denial. An application for services shall be denied when it is determined by the department that:

- a. The client is not eligible for or in need of services.
- b. Except for respite care, the elderly waiver services are not needed on a regular basis.
- c. Service needs exceed the aggregate monthly costs established in 83.22(2)“b,” or are not met by services provided.
- d. Needed services are not available or received from qualifying providers.
- e. Rescinded IAB 3/2/94, effective 3/1/94.

83.28(2) Termination. A particular service may be terminated when the department determines that:

- a. The provisions of subrule 130.5(2), paragraph “a,” “b,” “c,” “d,” “g,” or “h” apply.
- b. The costs of the elderly waiver services for the person exceed the aggregate monthly costs established in 83.22(2)“b.”
- c. The client receives care in a hospital or nursing facility for 30 days in any one stay for purposes other than respite care.
- d. The client receives elderly waiver services and the physical or mental condition of the client requires more care than can be provided in the client’s own home as determined by the service worker.
- e. Service providers are not available.

83.28(3) Reduction of services shall apply as in subrule 130.5(3), paragraphs “a” and “b.”

441—83.29(249A) Appeal rights. Notice of adverse action and right to appeal shall be given in accordance with 441—Chapter 7 and rule 441—130.5(234). The applicant or recipient is entitled to have a review of the level of care determination by the Iowa foundation for medical care by sending a letter requesting a review to the foundation. If dissatisfied with that decision, the applicant or recipient may file an appeal with the department.

441—83.30(249A) Enhanced services. When a household has one person receiving service in accordance with rules set forth in 441—Chapter 24 and another receiving elderly waiver services, the persons providing case management shall cooperate to make the best plan for both clients. When a person is eligible for services as set forth in 441—Chapter 24 and eligible for services under the elderly waiver, the person’s primary diagnosis will determine which services shall be used.

These rules are intended to implement Iowa Code sections 249A.3 and 249A.4.

83.31 to 83.40 Reserved.

DIVISION III — AIDS/HIV WAIVER SERVICES

441—83.41(249A) Definitions.

“*AIDS*” means a medical diagnosis of acquired immunodeficiency syndrome based on the Centers for Disease Control “Revision of the CDC Surveillance Case Definition for Acquired Immunodeficiency Syndrome,” August 14, 1987, Vol. 36, No. 1S issue of “Morbidity and Mortality Weekly Report.”

“*Client participation*” means the amount of the recipient’s income that the person must contribute to the cost of AIDS/HIV waiver services exclusive of medical vendor payments before Medicaid will participate.

“*Deeming*” means the specified amount of parental or spousal income and resources considered in determining eligibility for a child or spouse according to current supplemental security income guidelines.

“*HIV*” means a medical diagnosis of human immunodeficiency virus infection based on a positive HIV-related test.

[Filed 7/17/92, Notice 5/13/92—published 8/5/92, effective 10/1/92]

[Filed 8/14/92, Notice 7/8/92—published 9/2/92, effective 11/1/92]

[Filed 9/11/92, Notice 7/8/92—published 9/30/92, effective 12/1/92]

[Filed emergency 7/13/93 after Notice 5/12/93—published 8/4/93, effective 8/1/93]

[Filed 8/12/93, Notice 4/28/93—published 9/1/93, effective 11/1/93]

[Filed 10/14/93, Notice 8/18/93—published 11/10/93, effective 1/1/94]

[Filed emergency 12/16/93 after Notice 10/27/93—published 1/5/94, effective 1/1/94]

[Filed emergency 2/10/94 after Notice 1/5/94—published 3/2/94, effective 3/1/94]



441—85.43(249A) Eligibility of persons aged 65 and over. To be eligible for payment for the cost of care provided by nursing facilities for persons with mental illness, persons must be aged 65 or over and be eligible under one of the coverage groups listed in rule 441—75.1(249A), except for medically needy.

441—85.44(249A) Client participation. The resident's client participation and medical payments from a third party shall be paid toward the total cost of care on a monthly basis. The state will pay the balance of the cost of care for the month. The facility shall make arrangements directly with the resident for payment of client participation. Client participation is determined according to rule 441—75.16(249A).

441—85.45(249A) Responsibilities of nursing facility.

85.45(1) Medical record requirements. The facility shall obtain a PRO determination that the person requires psychiatric care when a person applying or eligible for Medicaid enters the facility, returns from an acute care hospital stay longer than 10 days, or enters the facility after 30 consecutive days of visitation. Periodic PRO determinations of the need for continuing care are also required.

85.45(2) Fiscal records.

a. A Case Activity Report, Form AA-4166-0, shall be submitted to the department whenever a Medicaid applicant or recipient enters the facility, changes level of care, is hospitalized, leaves for visitation, or is discharged from the facility.

b. The facility shall bill after each calendar month for the previous month's services.

441—85.46(249A) Policies governing reimbursement. Cost reporting, reserve bed day payment, and reimbursement shall be the same for nursing facilities for persons with mental illness as for nursing facilities as set forth in 441—Chapter 81.

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

[Filed emergency after Notice 9/27/79, Notice 7/11/79—published 10/17/79, effective 9/27/79]

[Filed emergency 2/10/84—published 2/29/84, effective 2/10/84]

[Filed emergency 1/15/87—published 2/11/87, effective 1/15/87]

[Filed 4/22/88, Notice 3/9/88—published 5/18/88, effective 7/1/88]

[Filed emergency 6/9/88—published 6/29/88, effective 7/1/88]

[Filed 9/2/88, Notice 6/29/88—published 9/21/88, effective 11/1/88]

[Filed emergency 6/8/89—published 6/28/89, effective 7/1/89]

[Filed 7/14/89, Notice 5/31/89—published 8/9/89, effective 10/1/89]

[Filed 8/17/89, Notice 6/28/89—published 9/6/89, effective 10/11/89]

[Filed 7/13/90, Notice 5/30/90—published 8/8/90, effective 10/1/90*]

[Filed emergency 6/14/91—published 7/10/91, effective 7/1/91]

[Filed 7/10/91, Notice 5/29/91—published 8/7/91, effective 10/1/91]

[Filed 1/14/93, Notice 11/11/92—published 2/3/93, effective 4/1/93]

[Filed emergency 5/14/93 after Notice 3/31/93—published 6/9/93, effective 6/1/93]

[Filed 5/14/93, Notice 3/31/93—published 6/9/93, effective 8/1/93]

[Filed 11/12/93, Notice 9/15/93—published 12/8/93, effective 2/1/94]

CHAPTER 86
MEDICALLY NEEDY
[Prior to 2/11/87, Human Services(498)]

441—86.1(249A) Definitions.

"FIP-related" shall mean those persons who would be eligible for the family investment program except for income or resources.

"Aged" shall mean a person 65 years of age or older.

"Applicant" shall mean a person for whom assistance is being requested.

"Blind" shall mean a person with central visual acuity of 20/200 or less in the better eye with use of corrective lens or visual field restriction to 20 degrees or less.

"Certification period" shall mean the period of time not to exceed six consecutive months in which a person is eligible without a spenddown obligation, or not to exceed two consecutive months in which a person is conditionally eligible for Medicaid as medically needy.

"CMAP-related" shall mean those individuals under age 21 who would be eligible for FIP except for income or resources and who do not qualify as dependent children.

"Conditionally eligible recipient" shall mean a medically needy person who has completed the application process and has been assigned a certification period and spenddown amount but who has not spent down for the certification period.

"Disabled" shall mean a person who is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which has lasted or is expected to last for a continuous period of not less than 12 months.

"Eligible recipient" shall mean a medically needy person who has income at or less than the medically needy income level (MNIL) or who has reduced excess income through spenddown to the MNIL during the certification period.

"Incurred medical expenses" shall mean (1) medical bills paid by a recipient, responsible relative or state or political subdivision program other than Medicaid during the retroactive certification period or certification period, or (2) unpaid medical expenses for which the recipient or responsible relative remains obligated.

"Medically needy income level" (MNIL) shall mean 133 percent of the FIP schedule of basic needs (payment level) based on family size. (See 441—subrule 41.28(2))

"Medically needy person" shall mean a FIP, CMAP or SSI-related individual whose resources are within medically needy limitations and whose income is no more than the MNIL or whose income has been reduced to the MNIL through the spenddown process.

"Necessary medical and remedial services" shall mean medical services recognized by law which are currently covered under the Iowa Medicaid program.

"Noncovered Medicaid services" shall mean medical expenses that are not covered under Medicaid because the provider was not enrolled in Medicaid, the bill is for a responsible relative who is not in the Medicaid eligible group or the bill is for services delivered before the start of a certification period.

"Obligated medical expense" shall mean a medical expense for which the recipient or responsible relative continues to be legally liable.

"Ongoing eligibility" shall mean that eligibility continues for an SSI-related medically needy person with a zero spenddown.

"Responsible relative" shall mean spouse, parent(s), stepparent, living in the household of the eligible recipient.

"Retroactive certification period" shall mean three calendar months prior to the date of application for applications filed on or after February 1, 1985, two calendar months for applications filed on or after January 1, 1985, and one calendar month for applications filed on or after December 1, 1984.

"Spenddown" shall mean the process by which a medically needy person obligates excess

a. Received any covered medical service during the retroactive period which is still not paid, and

b. Would have been eligible for medical assistance benefits in the month services were received if they had applied in that month, regardless of whether the individual was alive when the application for medical assistance was made.

86.5(3) The work transition period as defined in 41.27(7) "af" does not apply to the medically needy retroactive eligibility period.

The applicant need not be eligible in the certification period to be eligible in any month of the retroactive period.

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

441—86.6(249A) Responsibilities of recipients.

86.6(1) The recipient shall cooperate by giving complete and accurate information needed to establish eligibility. Failure to do so shall serve as a basis for cancellation of assistance.

86.6(2) The recipient shall supply additional information needed to establish eligibility within five working days from the date a written request is mailed by the county office to the recipient's current mailing address or given to the recipient. The recipient shall give written permission for release of information on Authorization for Release of Information, Form PA-2206-0, when the recipient is unable to furnish information needed to establish eligibility. Failure to supply the information or refusal to authorize the county office to secure the information from other sources shall serve as a basis for cancellation of assistance.

86.6(3) The recipient or applicant shall cooperate with the department whenever the recipient's or applicant's case is selected by quality control or the food stamp investigation section of the department of inspections and appeals for verification of eligibility unless the investigation revolves solely around the circumstances of a person whose income and resources do not affect Medicaid eligibility. (See department of inspections and appeals rules 481—Chapter 72.) Failure to do so shall serve as a basis for cancellation or denial of assistance unless the Medicaid eligibility is determined by the Social Security Administration. Once denied or canceled for failure to cooperate, the person may reapply but shall not be determined eligible until cooperation occurs.

86.6(4) The recipient or individual applying to be added to an existing eligible group shall timely report any change in the following circumstances:

a. Income from all sources, any change in full-time or part-time employment status, and any changes in dependent care expenses.

b. Resources.

c. Members of the household.

d. Change of mailing or living address.

e. Payment for child support, alimony or dependents.

f. Change in medical resources.

86.6(5) A report shall be considered timely when made within ten days from:

a. The receipt of resources or increased or decreased income.

b. The date dependent care expenses increase or decrease or the date full-time or part-time employment status changes.

c. The date the address changes.

d. The date a person enters or leaves the household.

e. The date the payment increases or decreases for child support, alimony or dependents which is paid by the recipient, responsible relative or sponsor.

f. The date the applicant or recipient becomes aware of a change in medical resources.

86.6(6) When a change is not timely reported, any excess medical assistance paid shall be subject to recovery from the applicant or recipient.

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

441—86.7(249A) Effective date of change. After assistance has been approved, changes reported during the month will be effective the first day of the next calendar month, provided timely notice is not required as specified in 441—subrule 7.7(1) and the certification has not expired. When an application is completed to add a new person to the eligible group, and that person meets the eligibility requirements, assistance shall be effective the first of the month in which the application was filed.

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

441—86.8(249A) Coverage groups. Subject to other requirements of this chapter, Medicaid shall be available to the following coverage groups:

86.8(1) Pregnant women. Pregnant women who would be eligible for FIP, FIP-related medical programs, or SSI except for income or resources. For FIP-related programs, pregnant women shall have the unborn child or children counted in the household size as if the child or children were living with them.

86.8(2) FIP-related persons under age 19. Persons under age 19 who would be eligible for FIP except for income or resources.

86.8(3) CMAP-related persons under age 21. Persons under age 21 who would be eligible in accordance with 441—subrule 75.1(15) except for income and resources.

86.8(4) SSI-related persons. Persons who would be eligible for SSI except for income or resources.

86.8(5) FIP-specified relatives. Persons whose income or resources exceed the family investment program's limit and who are a specified relative as listed at 441—subrule 41.22(3) taking care of a child who is determined to be dependent (or would be if needy) because the child is deprived of parental support or care.

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

441—86.9(249A) Resources and income of persons considered.

86.9(1) Resources and income of all responsible relatives and of all potentially eligible individuals living together except as specified in subrule 86.9(2) shall be considered in determining eligibility.

86.9(2) The amount of income of the responsible relative that has been counted as available to a FIP household or SSI individual shall not be considered in determining the countable income for the medically needy eligible group.

86.9(3) The resource determination shall be according to 441—subrules 75.5(3) and 75.5(4) when one spouse is expected to reside at least 30 consecutive days in a medical institution.

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

441—86.10(239,249A) Resources.

86.10(1) The resource limitation for SSI-related households shall be \$10,000 per household.

86.10(2) Reserved.

86.10(3) Disposal of resources for less than fair market value by SSI-related applicants or recipients shall be treated according to policies specified in rule 441—75.6(249A).

86.10(4) The resource limitation for FIP and CMAP-related persons shall be \$10,000 per household. Resources shall be considered according to department of public health subrule 641—75.4(2) when determining eligibility for FIP or CMAP-related persons under this chapter.

86.10(5) The resources of SSI-related persons shall be treated according to SSI policies.

86.10(6) Where a resource is jointly owned by SSI-related persons and FIP-related persons, the resource shall be treated according to SSI policies for the SSI-related persons and according to FIP-related policies for the FIP-related persons.

This rule is intended to implement Iowa Code sections 239.5 and 249A.4.

441—86.11(249A) Income.

86.11(1) All unearned and earned income, unless specifically exempted, disregarded, deducted for work expenses, or diverted shall be considered in determining initial and con-

month certification with spenddown. This redetermination shall be effective the month the income exceeds the MNIL or the first month following timely notice.

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

[Filed emergency 11/1/84—published 11/21/84, effective 11/1/84]

[Filed 1/21/85, Notice 11/21/84—published 2/13/85, effective 4/1/85]

[Filed emergency after Notice 12/2/85, Notice 10/23/85—published 12/18/85, effective 1/1/86]

[Filed emergency after Notice 3/31/86, Notice 10/23/85—published 4/23/86, effective 4/1/86]

[Filed emergency 12/22/86—published 1/14/87, effective 1/1/87]

[Filed emergency 1/15/87—published 2/11/87, effective 1/15/87]

[Filed emergency after Notice 11/25/87, Notice 10/7/87—published 12/16/87, effective 12/1/87]

[Filed emergency 12/10/87—published 12/30/87, effective 1/1/88]

[Filed 4/22/88, Notice 2/24/88—published 5/18/88, effective 7/1/88]

[Filed emergency 6/9/88 after Notice 5/4/88—published 6/29/88, effective 7/1/88]

[Filed 6/9/88, Notice 4/20/88—published 6/29/88, effective 9/1/88]

[Filed 10/27/88, Notice 8/24/88—published 11/16/88, effective 1/1/89]

[Filed emergency 6/9/89—published 6/28/89, effective 7/1/89]

[Filed 7/14/89, Notice 5/31/89—published 8/9/89, effective 10/1/89]

[Filed 8/17/89, Notice 6/28/89—published 9/6/89, effective 11/1/89]

[Filed 10/10/89, Notice 8/23/89—published 11/1/89, effective 1/1/90]

[Filed emergency 5/11/90—published 5/30/90, effective 7/1/90]

[Filed 7/13/90, Notices 5/16/90, 5/30/90—published 8/8/90, effective 10/1/90]

[Filed 3/14/91, Notice 1/23/91—published 4/3/91, effective 6/1/91]

[Filed 5/17/91, Notice 4/3/91—published 6/12/91, effective 8/1/91]

[Filed 7/10/91, Notice 5/29/91—published 8/7/91, effective 10/1/91]

[Filed without Notice 9/18/91—published 10/16/91, effective 11/21/91]

[Filed emergency 10/10/91—published 10/30/91, effective 11/21/91]

[Filed 1/29/92, Notice 10/16/91—published 2/19/92, effective 3/25/92]

[Filed emergency 4/15/92—published 5/13/92, effective 4/16/92]

[Filed 5/14/92, Notice 3/18/92—published 6/10/92, effective 8/1/92]

[Filed emergency 7/17/92—published 8/5/92, effective 8/1/92]

[Filed 8/14/92, Notices 7/8/92, 8/5/92—published 9/2/92, effective 11/1/92]

[Filed 9/11/92, Notices 8/5/92—published 9/30/92, effective 12/1/92]

[Filed without Notice 8/12/93—published 9/1/93, effective 11/1/93]

[Filed emergency 9/17/93—published 10/13/93, effective 10/1/93]

[Filed 12/16/93, Notice 9/1/93—published 1/5/94, effective 3/1/94]

[Filed 12/16/93, Notice 10/13/93—published 1/5/94, effective 3/1/94]

[Filed 2/10/94, Notice 1/5/94—published 3/2/94, effective 5/1/94]

Faint, illegible text, possibly bleed-through from the reverse side of the page. The text is arranged in several paragraphs and is too light to transcribe accurately.

CHAPTER 93
PROMISE JOBS PROGRAM

[Prior to 7/1/89, see 441—Chapters 55, 59 and 90]

DIVISION I
FAMILY INVESTMENT PROGRAM—CONTROL GROUP

PREAMBLE

This chapter implements the PROMISE JOBS* program which is designed to increase the availability of employment and training opportunities to family investment program (FIP) recipients. The program assigns responsibility for the provision of services to the Iowa department of employment services (DES) and the department of economic development (DED) as the administrative entity for the Job Training Partnership Act (JTPA) program, Iowa's two primary providers of employment-oriented services. In addition, the bureau of refugee services (BRS) of the department of human services is assigned the responsibility of providing program services, to the extent compatible with resources available, to all refugees.

PROMISE JOBS services include orientation, assessment, job-seeking skills training, group and individual job search, classroom training programs ranging from basic education to post-secondary education opportunities, work experience, unpaid community service, parenting skills training, and the FIP-unemployed parent work program. In addition, participants have access to all services offered by the provider agencies.

The program also implements the federal Job Opportunities and Basic Skills (JOBS) program of the Family Support Act of 1988.

441—93.1(249C) Program area. The department of human services shall administer an employment and training program known as PROMISE JOBS. The program shall be available statewide. All services, including DES job club, shall be available in the following counties:

Appanoose	Harrison	Page
Black Hawk	Henry	Polk
Carroll	Jasper	Pottawattamie
Cerro Gordo	Jefferson	Scott
Clay	Johnson	Story
Clinton	Lee	Union
Dallas	Linn	Wapello
Des Moines	Mahaska	Warren
Dubuque	Marshall	Webster
Floyd	Muscatine	Woodbury
Hamilton		

In remaining counties and for refugees, other employment-oriented activities may be substituted for job club. All other services shall be available.

441—93.2(249C) Agency responsibility for provision of each service. Rescinded IAB 12/8/93, effective 1/1/94.

441—93.3(249C) Contracts with provider agencies for provision of services. The department of human services shall contract with the departments of employment services and economic development to provide PROMISE JOBS services to FIP recipients. Services shall include orientation, assessment, job-seeking skills training, group and individual job search, job placement and job development, high school completion, adult basic education (ABE), general educational development (GED), and English as a second language (ESL), vocational classroom

*See definition in 441—40.1(239)

training, postsecondary education, work experience, unpaid community service, parenting skills training, and the FIP-UP work program.

The bureau of refugee services shall provide the above services, to the extent compatible with resources available, to persons who entered the United States with refugee status.

441—93.4(249C) Registration and referral requirements. An application for assistance constitutes a registration for the PROMISE JOBS program for all members of the FIP case. All persons eligible for or receiving a grant under the FIP program shall be referred unless the local office determines the person is exempt.

93.4(1) All registrants may volunteer for services.

93.4(2) Registrants are exempt from referral when they qualify for exemption as specified in subrule 41.4(1).

93.4(3) Applicants for FIP assistance may volunteer for and are eligible to receive job placement services prior to approval of the FIP application. Applicants who participate in the program shall receive a transportation allowance, as well as payment of child care, if required. The transportation allowance shall be paid at the start of participation. The income maintenance worker shall not refer an applicant to the program when it appears that the applicant will be ineligible for FIP.

93.4(4) Only clients applying for or receiving FIP assistance are eligible for PROMISE JOBS services.

441—93.5(249C) Priority of service.

93.5(1) Federal requirements. Federal law contains the following requirements in regard to JOBS target groups and the state's JOBS participation rates:

a. Federal law requires that at least 55 percent of all JOBS program funds be expended on the following target groups:

(1) Parents who are not yet aged 24 and who have not completed high school or have no work history during the past 12 calendar months.

(2) Persons in households where the youngest child will become ineligible for FIP cash assistance during the next 24-month period.

(3) Persons who have received FIP cash assistance for any 36 months during the most recent 60-month period.

(4) Parents under the age of 20 who have a child under the age of 3 but have not completed high school.

b. Federal law requires that a certain percentage of each state's mandatory participant population be actively participating in the JOBS program each year. The requirement begins at 7 percent in federal fiscal year 1991 and increases to 20 percent by federal fiscal year 1995. Because of criteria used to determine the participation rate for federal purposes, some PROMISE JOBS participants are excluded from the participation rate calculation, regardless of whether the participants are satisfactorily participating in the program.

c. Federal law requires that a certain percentage of FIP-unemployed parent (FIP-UP) cases meet certain participation requirements in order for the state IV-A agency to receive the maximum allowable federal matching rate. The requirement begins at 40 percent of the FIP-UP cases in federal fiscal year (FFY) 1994 and increases to 50 percent for FFY 1995, 60 percent for FFY 1996, and 75 percent for FFY 1997 and beyond.

93.5(2) Call-up. Employment services staff will call up registrants who have been referred. Teen parents aged 19 and under, young parents aged 20 and 21, participants in the self-employment investment demonstration project as described at subrule 93.14(10), parents on FIP-UP cases, and FIP recipients in other target groups as described at subrule 93.5(1) who receive supportive services from the family development and self-sufficiency (FaDSS) program under 441—Chapter 165 shall receive priority service for call-up.

The department may exercise the option to give priority call-up service to FaDSS participants who are not in target groups. Otherwise, all persons who volunteer shall first be called up to receive priority service unless, in order to meet the 55 percent expenditure requirement, services must be restricted to the target groups listed in 93.5(1)"a." In that case, volunteers within these groups shall first be called up to receive priority service, followed by mandatory members of these groups who have not volunteered.

Clients who are participating in the food stamp employment and training (FSET) program at the time of call up shall be allowed to complete the FSET component in which they are currently enrolled, followed by a 60-calendar-day suspension period, before being required to begin PROMISE JOBS assessment activities. This does not apply to persons who drop out of the FSET component.

93.5(3) *Waiting lists.* Because of state and federal budgetary limitations on the PROMISE JOBS program, persons who are not designated parents on FIP-UP cases who complete orientation and assessment I shall be placed on a waiting list, when appropriate, for any further PROMISE JOBS services. Persons shall be removed from the waiting list and placed in additional components as funds and training slots become available. The department shall have the administrative authority to determine agency and geographical breakdowns or to designate specific PROMISE JOBS components or supportive service levels for a waiting list. Persons who are designated parents on FIP-UP cases will not be placed on a waiting list, provided sufficient funds are available to serve them.

a. In regard to the priority of participants to be removed from the waiting list, as described above, the department shall have the administrative authority to give first priority for removal from the waiting list to the teen parents aged 19 and under. In addition, priority for removal from the waiting list may also be given to parents aged 20 and 21. Subject to the constraints described in this paragraph, subparagraphs (1) to (4), the department shall make PROMISE JOBS services available to teen parents with an emphasis on high school completion. Priority for removal from the waiting list may also be given to parents on family investment program-unemployed parent (FIP-UP) cases. The decision as to whether teen parents or parents on FIP-UP cases shall receive priority service, and the services that will be made available to them, and the decision as to the availability of PROMISE JOBS services to other participants, regardless of target group status, shall be based on whether:

- (1) Sufficient PROMISE JOBS funds are available.
- (2) The state will meet the target group requirement described at 93.5(1)"a."
- (3) The state will meet the federal participation rate requirement described at 93.5(1)"b."
- (4) The state will meet the FIP-UP participation rate requirement described at 93.5(1)"c."

b. The department shall also have the administrative authority to remove nontarget group members and SEID and ISHIP participants from the waiting list and make services available to them, subject to the restraints described at 93.5(3)"a"(1) to (3).

c. Persons who are participating in a component who are canceled from FIP are not eligible for PROMISE JOBS services while FIP is canceled. However, the person can regain immediate eligibility for PROMISE JOBS services and shall not be placed on a waiting list if the period of FIP ineligibility does not exceed four consecutive months and the participant is still satisfactorily participating in approvable training at the time that FIP eligibility is regained.

441—93.6(249C) Orientation and participation in PROMISE JOBS. Every FIP recipient who is called up shall participate in orientation.

93.6(1) *Requirements of orientation.* During orientation, each participant shall receive a full explanation of the advantages of employment under the family investment program (FIP), services available under PROMISE JOBS, a review of participant rights and responsibilities under the family investment agreement (FIA) and PROMISE JOBS, a review of the limited benefit plan (LBP) as described at 441—subrule 41.24(7) (even though control group FIP participants are not eligible for the FIA and the LBP does not apply to them), an explanation

of the benefits of cooperation with the child support recovery unit, and an explanation of the other programs available through PROMISE, specifically the cash bonus and transitional Medicaid and child care assistance programs.

a. Each participant shall sign Form WI-3305, Your Rights and Responsibilities, acknowledging that the information described above has been provided.

b. Participants are required to complete a current employment services registration, Form 60-0330, Application for Job Placement Assistance and/or Job Insurance, when requested by PROMISE JOBS staff.

c. Orientation may also include completing self-assessment documents.

d. The PROMISE JOBS worker shall meet with each participant, or family if appropriate when two parents or children who are mandatory PROMISE JOBS participants are involved, to determine readiness to participate, establish expenses and a payment schedule and to discuss child care needs.

93.6(2) *Beginning participation.* An individual becomes a PROMISE JOBS participant when that person attends the first day of the assessment component, as described at rule 441—93.11(249C), or when the person signs an employability plan and an employability plan guide book, as described at rule 441—93.9(249C), whichever occurs first.

93.6(3) *Initial needs evaluation.* Rescinded IAB 12/8/93, effective 1/1/94.

441—93.7(249C) *Medical examinations.* A person shall secure and provide written documentation signed by a licensed health practitioner, licensed in Iowa or adjoining states, to verify a claimed illness or disability within 45 days of a written request by staff.

441—93.8(249C) *Self-initiated training.* Registrants who have attended one or more days of training prior to participating in a PROMISE JOBS orientation are considered to be self-initiated. For registrants who at time of call-up for PROMISE JOBS orientation are in self-initiated classroom training, including government-sponsored training programs, PROMISE JOBS staff shall determine whether the training program meets acceptable criteria as prescribed for the classroom training component at rule 441—93.14(249C).

93.8(1) *Nonapprovable training.* When it is determined that the self-initiated training does not meet the criteria of rule 441—93.14(249C), the registrant may be required to participate in PROMISE JOBS activities or may be deactivated or have participation waived as long as the training, although not approvable by PROMISE JOBS standards, can still be reasonably expected to result in self-sufficiency. PROMISE JOBS expense allowances are not available for persons in nonapprovable training.

93.8(2) *Approvable training.* When a self-initiated training program meets PROMISE JOBS program standards, including SEID and ISHIP as described at 441—subrule 48.3(4), the participant shall be enrolled in the classroom training component in order to be eligible for child care and transportation assistance. Eligibility for payment of transportation and child care allowances shall begin for that month in which the training plan is approved or the participant is removed from a waiting list as described at 93.5(3), whichever is later. Self-initiated participants are not eligible for expenses allowances to pay for tuition, fees, books, or supplies.

441—93.9(249C) *Employability plan.* Prior to active participation, a self-sufficiency plan shall be developed for each registrant using Form WI-3304, Employability Plan, and Form 470-2926, Employability Plan Guide Book.

93.9(1) *Requirements of the employability plan.* The employability plan shall be developed through joint coordination and discussions between the client, DES and JTPA during assessment. Development of the employability plan is an ongoing process. The employability plan shall be revised when need is shown by change and reassessment of the participant's circumstances.

a. The employability plan must be signed by the registrant, the worker and project supervisors, when project supervisors are available, before the registrant can become an active participant.

b. The employability plan shall generally be completed during assessment, but may be completed during orientation for some participants, such as those in approvable self-initiated training and those participating in the family development and self-sufficiency (FaDSS) program.

c. The employability plan shall, to the maximum extent possible, reflect the goals of the registrant, subject to program rules, funding, the registrant's capability, experience and aptitude, and the potential market for the job skills currently possessed or to be developed.

d. The employability plan shall also describe services to be provided, including the FIP-UP work program, child care and other supportive services, and the activities that will be undertaken by the participant to achieve the employment goal, including job-seeking skills, job search, high school completion, GED, ABE, ESL, unpaid community service, parenting skills training, and vocational classroom training activities when appropriate.

93.9(2) *The Employability Plan Guide Book*. Form 470-2926, *Employability Plan Guide Book*, is also signed by the worker and the participant. The *Employability Plan Guide Book* will generally be completed during assessment, but may be completed during orientation for some participants, such as those participants in approvable self-initiated training, or those participating in the family development and self-sufficiency (FaDSS) program.

441—93.10(249C) Arranging for services. Staff is responsible for providing or helping the participant to arrange for employment-oriented services, as required, to facilitate the registrants' successful participation, including client assessment or case management, employment education, transportation, child care, referral for medical examination, and supportive services under the family development and self-sufficiency program described in 441—Chapter 165. PROMISE JOBS funds shall be used to pay costs of obtaining a birth certificate when the birth certificate is needed in order for the registrant to complete the employment service registration process described in rule 441—93.6(249C). PROMISE JOBS funds may also be used to pay expenses for clients enrolled in JTPA-funded components when those expenses are allowable under these rules. Clients shall submit Form PA-8121-5, Estimate of Cost, to initiate allowances or change the amount of payment.

93.10(1) **Payment for child care.** Payment for child care, if required for participation in any PROMISE JOBS component other than orientation, not specifically prohibited elsewhere in these rules, and not available from any other source, shall be provided for participants after service has been received. Payment shall be made monthly unless the child care provider requires more frequent payment. Payment shall be authorized directly to the child care provider unless circumstances indicate that payment should be issued to the participant. These circumstances include reimbursement for the participant who documents payment for child care with personal funds and other circumstances as deemed appropriate and documented by the staff authorizing the payment.

a. Rate of payment shall be based on the 75th percentile cost of comparable types of child care in the local area.

b. Local market rates shall be determined based on representative samples of child care costs for all political subdivisions or for alternate areas which represent reasonable child care markets based upon their geographic proximity or common characteristics. Local market rates shall be determined using the following considerations:

(1) Separate market rates shall be determined for center care, group family care, family day care, and in-home care.

(2) Local market rates shall differentiate among care for children with special needs, infants, toddlers, preschool and school-age children, where applicable.

(3) Local market rates shall differentiate between full-time and part-time care, if applicable.

(4) Local market rates shall consider reductions in the cost of care for additional children in the same family.

c. Where there are only one or two providers of a type of care in a local market area, the rate of payment may be set at the 100th percentile cost.

d. If state-only funding is made available, the rate of payment may exceed the 75th percentile of costs but shall not exceed the going rate in the community.

93.10(2) PROMISE JOBS will pay a provider no more than the rate the provider charges a private individual. PROMISE JOBS funds shall be used to pay mandatory child care fees when required by a child care facility, including payment for periods of absence, not to exceed 30 days, required by the provider to maintain the child care slot.

93.10(3) In two-parent households, PROMISE JOBS is authorized to pay child care if it can be documented that the other parent is unable to provide care or the other parent is employed, in school, or participating in an employment and training program during the hours that care is needed.

93.10(4) Child care shall not be paid to a biological, step, or adoptive parent. Child care shall not be paid to other family members who are included in the same eligible group.

93.10(5) Payment shall be made for a child in the eligible group or who would be in the eligible group except for the receipt of Supplemental Security Income. Payment shall also be made for a child living in the home whose needs are met by IV-E foster care. Payment is limited to children who are either under age 13 or age 13 and over who are physically or mentally incapable of self-care, when established in accordance with subrule 41.1(5) "c," or under court supervision.

93.10(6) Transportation allowances. Participants may receive a transportation allowance for each day of participation, if transportation is required for participation in a PROMISE JOBS activity, but shall not receive a transportation allowance for orientation or for assessment activities which occur on the same day as orientation. The transportation allowance shall be paid monthly at the start of each month of participation or when participation begins, whichever is earlier.

Transportation allowances shall be developed individually according to the circumstances of each participant. Allowances shall cover transportation for the participant and child, if necessary, from the participant's home to the child care provider, if necessary, and to the PROMISE JOBS site or activity.

a. For those who use public transportation, the allowance shall be based on the normally scheduled days of participation in the PROMISE JOBS activity for the period covered by the payment, using the rate schedules of the local transit authority to the greatest advantage, including use of weekly and monthly passes or other rate reduction opportunities.

b. For participants who use a motor vehicle they operate themselves or who hire private transportation, the transportation allowance shall be based on a formula which uses the normally scheduled days of participation in the PROMISE JOBS activity for the period covered by the allowance times the participant's anticipated daily round trip miles times the mileage rate of \$.16 per mile.

c. Transportation allowances for the assessment component shall be issued in advance in weekly increments as described in 93.10(6)"a" or 93.10(6)"b," with payments for the second or third week of assessment being issued as soon as it is determined that the participant will be required to participate in the second or third week of the component.

d. Monthly transportation allowances for each full calendar month of participation shall be issued in advance in the amount determined by the formula described in 93.10(6)"a" or 93.10(6)"b."

(1) Allowances for the third and subsequent months of an ongoing activity shall not be authorized prior to receipt of time and attendance verification, as described at subrule 93.35(2), for the month previous to the issuance month. (For example, a transportation allowance for

December, normally issued after November 15 to be available to the participant by December 1, will not be authorized until time and attendance verification for the month of October has been received in the PROMISE JOBS office.)

(2) The amounts of allowances for the third and subsequent months of an ongoing activity shall be adjusted by subtracting from normally scheduled days any number of days which represent a difference between the number of normally scheduled days in the month previous to the issuance month and the number of actual days attended in the month previous to the issuance month. (For example, a transportation allowance based on 16 normally scheduled days of participation is authorized for October, issued in September. If ten days of participation are normally scheduled in December, and the participant did not attend two days of the PROMISE JOBS activity in October, the December transportation allowance, issued in November for December, shall be calculated using eight days.) Because this adjustment is not possible in the last two months of an ongoing activity, transportation allowances for the last two months of an ongoing activity shall be subject to transportation overpayment provisions of 93.10(8) "b."

e. Persons who require, due to a mental or physical disability, a mode of transportation other than a vehicle they operate themselves shall be eligible for payment of a supplemental transportation allowance when documented actual transportation costs are greater than transportation allowances provided under these rules and transportation is not available from a nonreimbursable source. Costs of transportation by a public or private agency shall be allowed for the actual costs. Costs of transportation provided by private automobile shall be allowed for the actual charge up to a maximum of the rate per mile as described in 93.10(6) "b."

(1) Medical evidence of disability or incapacity may be obtained from either an independent physician or psychologist or the state rehabilitation agency in the same manner specified in 441—41.1(5) "c."

(2) The client's need for a mode of transportation other than a vehicle operated by the client due to disability or incapacity shall be verified by either an independent physician or psychologist or the state rehabilitation agency.

f. In those instances where a PROMISE JOBS participant is enrolled in high school, a transportation allowance shall not be allowed if transportation is available from a nonreimbursable source such as when transportation is provided by the school district, or the school district has deemed it unnecessary due to the proximity of the participant's home to the school. If child care needs make it impossible for the participant to use transportation provided by the school district, a transportation allowance shall be authorized.

93.10(7) Expense allowances during a month of FIP suspension. Payment for expenses shall be made for a month of FIP suspension if the client chooses to participate during that month in a PROMISE JOBS component to which the client has been previously assigned.

93.10(8) Transportation overpayment. Payment for transportation shall be considered an overpayment subject to recovery in accordance with rule 441—93.51(249C) in the following instances:

a. When the participant attends none of the scheduled days of participation in a PROMISE JOBS activity, the entire transportation allowance shall be considered an overpayment. Recovery of the overpayment shall be initiated when it becomes clear that subsequent participation in the activity is not possible for reasons such as, but not limited to, family investment program ineligibility, PROMISE JOBS sanction, deactivation from PROMISE JOBS, or exemption from PROMISE JOBS participation requirements.

b. When the participant fails to attend 75 percent of the normally scheduled days of participation in either of the last two months of an ongoing PROMISE JOBS activity or in any transportation allowance period of an activity which has not been used for allowance adjustment as described at 93.10(6) "d," an overpayment is considered to have occurred. The amount to recover shall be the difference between the amount for the actual number of days attended

and the amount for 75 percent of normally scheduled days. However, a transportation allowance overpayment does not occur for any month in which the participant leaves the PROMISE JOBS activity in order to enter employment.

441—93.11(249C) Assessment and assignment to other activities and components. PROMISE JOBS components include assessment, job search activities, basic education services, work experience, unpaid community service, parenting skills training, postsecondary classroom training, and the FIP-UP work program.

93.11(1) Assessment. The purpose of assessment is to provide for a thorough self-evaluation by the FIP participant or family and to provide a basis for PROMISE JOBS staff to determine employability potential and to determine the services that will be needed to achieve self-sufficiency as described in the PROMISE JOBS employability plan. Assessment shall be conducted so as to ensure that participants can make well-informed choices and PROMISE JOBS workers can provide appropriate guidance as they complete the employability plan to achieve the earliest possible self-sufficiency for the FIP family. Assessment services shall be provided through coordination among PROMISE JOBS provider agencies.

Assessment services shall be delivered through options known as assessment I, assessment II, and assessment III. These options may be provided as separate services, delivered at appropriate times during the duration of the employability plan, or may be delivered as a continuous service up to the level necessary to provide the assessment needed for participant and PROMISE JOBS worker decisions while completing the employability plan.

a. Assessment I shall be provided for all FIP participants. PROMISE JOBS staff shall meet individually with FIP recipients who are referred to PROMISE JOBS for development of the employability plan. This assessment meeting, at a minimum, shall assess the family's financial situation, family profile and goals, employment background, educational background, housing needs, child care needs, transportation needs, health care needs, and other barriers which may require referral to entities other than PROMISE JOBS for services.

(1) Assessment I may be the level of assessment appropriate for persons for whom: a part-time job has the potential to become full-time; there is an expectation of securing immediate employment; there are obvious literacy or other basic education barriers; family responsibilities limit the time that can be dedicated toward achieving self-sufficiency; there are transportation barriers; or there are multiple barriers which indicate that FaDSS, other family development services, or other social services are appropriate before other significant steps can be taken toward self-sufficiency.

(2) Persons in these circumstances may, based on the results of assessment I, complete the employability plan to participate in activities such as, but not limited to, job search, unpaid community service, parenting skills training, FaDSS or other family development services, other social services, or basic or remedial education, perhaps in conjunction with other services.

(3) The services of assessment I shall be provided in one individual session unless the PROMISE JOBS worker documents a need for additional time.

(4) Participants shall have the option of substituting assessment information which they have completed with another agency or person such as, but not limited to, JTPA, Head Start, public housing authorities, child welfare workers, and family development services for assessment I. Participants shall authorize PROMISE JOBS to obtain these assessment results by signing Form MH-2201-0, Consent to Release or Obtain Information. To be used in place of assessment I, the assessment results must contain all or nearly all of the items from paragraph "a" above and must have been completed within the past 12 months.

(5) Participants shall have the option to supplement assessment I with information in the manner as described in subparagraph (4) above and to establish communication between PROMISE JOBS staff and other agencies or persons in order to ensure that the employability plan activities do not conflict with any case plans which have already been established for the family. Authorizing this communication is not required in order to complete the employability-

ty plan but PROMISE JOBS staff shall have the authority to ask for verification of activities planned under another case plan when the participant reports conflicts.

b. Assessment II services shall be provided for those who, during assessment I, have no barriers to limit participation, have no specific career goal or plan, and need further assessment services to complete the employability plan; and those who are ready to advance to other components after completing PROMISE JOBS or other services which were determined after assessment I and are part of the employability plan.

(1) The services of assessment II may include, but are not limited to, literacy and aptitude testing, educational level and basic skills assessment, self-esteem building, interest assessment, exposure to nontraditional jobs, exposure to job retention skills, goal setting, motivational exercises, exposure to job-seeking skills, and exposure to role models.

(2) Persons who complete assessment II may complete the employability plan to participate in PROMISE JOBS components such as, but not limited to, job club or other job search activities, work experience placement, or referral for entrepreneurial training.

(3) Assessment III services shall be provided for those who, during assessment I or II, request postsecondary classroom training as part of the employability plan; or those whose previous participation indicates a need for and a likelihood of success in postsecondary classroom training.

c. Services of assessment III shall provide occupational-specific assessment or guidance before completing the employability plan for postsecondary classroom training. These services may be provided by PROMISE JOBS staff or other entities as arranged locally.

It is expected that assessment II and assessment III activities shall be provided in a maximum of 20 hours for each option unless the PROMISE JOBS worker documents a need for additional time.

d. FIP participants who previously participated in assessment options and then were canceled from FIP may be required to participate in any assessment option again when the PROMISE JOBS worker determines that updated assessment is needed for development or amendment of the employability plan.

e. Family development and self-sufficiency (FaDSS) program participants attend orientation but are not referred to assessment until the FaDSS grantee approves the assignment of the FaDSS participant to other PROMISE JOBS activities. FaDSS participants who have completed assessment in the past may be required to complete assessment again when the FaDSS grantee approves assignment to other PROMISE JOBS activities if the PROMISE JOBS worker believes that extended assessment is necessary to reassess the participant's abilities and circumstances.

f. Except for assessment activities which occur on the same day as orientation, persons participating in assessment options are eligible for allowances for transportation and child care needed to allow the scheduled participation. Persons who miss any portion of scheduled assessment services may be required to make up the missed portion of the sessions, based on worker judgment and participant needs. When make-up sessions are required, the participant shall not receive an additional transportation allowance, but necessary child care shall be paid.

g. A participant who has completed assessment I and who wishes to include postsecondary classroom training in the employability plan shall be required to participate in assessment II and assessment III unless the participant is not required to do so because:

(1) The person had been accepted for training by either SEID or an ISHIP training provider.

(2) The person is already involved in approvable self-initiated training at the time of PROMISE JOBS orientation.

(3) Participation in assessment II and assessment III would interfere with training initiated by the participant after orientation and the training is approvable under PROMISE JOBS. Participants who initiate training after orientation are not considered self-initiated but are otherwise treated in accordance with rule 441—93.8(249C) or in accordance with 93.11(2).

93.11(2) *Assessment-related restrictions on expense allowance assistance for self-initiated training.* When persons described at 93.11(1)“g”(2) and (3) are still within the first quarter or semester of involvement with the training program that they have chosen, expense allowance assistance through PROMISE JOBS cannot be approved, even if the training is otherwise approvable, until the persons have completed the assessment II and assessment III options or have successfully completed the first quarter or semester of the training program in accordance with the requirements of the educational institution being attended. Persons involved in training programs where quarters or semesters are not used must successfully complete four months of the training program before assistance can begin, except for SEID and ISHIP participants who are exempt from the limitations of this paragraph. Otherwise, assistance shall only be approved effective with the second quarter or semester, or with the fifth month of participation in the training program, as applicable to the client’s situation.

93.11(3) *Requirements for parents who have not completed high school.* Assessment and development of the employability plan shall follow these guidelines for parents under the age of 20.

a. Parents under the age of 16 who have not completed high school shall be expected to use enrollment or continued attendance in high school completion as a first step in the employability plan.

b. Parents aged 16 or 17 who have not completed high school shall be expected to use enrollment or continued attendance in high school completion or the GED program as a first step in the employability plan. Participants deemed incapable of participating in these activities by the local education agency shall choose other PROMISE JOBS components.

c. Parents who are aged 18 or 19 who have not completed high school shall be expected to use enrollment or continued attendance in high school completion or the GED program as a first step in the employability plan if assessment indicates the participants are capable of completing regular high school, alternate high school, or GED. Participants deemed incapable of participating in these activities shall choose other PROMISE JOBS components.

93.11(4) *Participation after completion of appropriate assessment.* After completion of the appropriate assessment level, participants shall be referred for the PROMISE JOBS component services or supportive services which are designated in the completed employability plan.

93.11(5) *Retention of a training slot.* Once a person has been assigned a PROMISE JOBS training slot, that person retains that training slot until FIP eligibility is lost for more than four consecutive months, or the person becomes exempt from PROMISE JOBS and the person does not choose to volunteer to continue to participate in the program.

441—93.12(249C) *Job search options.* Employment is the final goal of the employability plan as described at rule 441—93.9(249C) and PROMISE JOBS participants shall have several options to search for work: job club, individual job search, and self-directed job search. The participant and the PROMISE JOBS worker shall incorporate into the self-sufficiency plan the job search option which is appropriate for the previous work history, skill level, and life circumstances of the participant. Job search contacts shall be documented by PROMISE JOBS staff or by participants, as appropriate. Participant documentation shall be provided on Form 470-3099, Job Search Record, as described at 93.35(3). For job search planning and reporting purposes, each job search contact documented by the participant shall be considered to require one hour of participation.

93.12(1) *Job club.* Job club consists of one week of job-seeking skills training and two weeks of group job search. It is expected that job clubs will be designed to require at least 20 hours a week of participation in each week. However, less than 20 hours a week may be scheduled based on local office need and resources. Participants who choose job club shall receive a child care allowance, if required, and an allowance as described at 93.10(6) to cover costs of transportation, if required. The transportation allowance shall be paid in full at the start of participation.

Job-seeking skills training includes, but is not limited to: self-esteem building, goal attainment planning, resumé development, grooming, letters of application and follow-up letters, job application completion, job retention skills, motivational exercises, identifying and eliminating employment barriers, positive impressions and self-marketing, finding job leads, obtaining interviews, use of telephones, interviewing skills development and practice interviewing.

a. All participants who choose the job club option shall receive one week of job-seeking skills training. Daily attendance during the one week of job-seeking skills training is necessary. Participants who miss any portion of the job-seeking skills training shall repeat the entire week of training.

(1) Participants who must repeat the job-seeking skills training because of absence due to good cause as described elsewhere in these rules shall receive an additional transportation allowance as described at 93.10(6) and required child care payment shall be made.

(2) Participants who must repeat job-seeking skills training for absence without good cause shall not receive an additional transportation allowance. Required child care payment shall be allowed.

b. Participants shall then take part in a structured employment search activity for a period not to exceed two weeks. Scheduled activities and required hours of participation shall reflect proven job-search techniques and the employment environment of the community of the local office and may be varied due to the resources available and the needs of the participants.

Participants who choose job club shall make up absences which occur during the two-week job search period. Additional transportation allowances shall not be paid to these persons. Required child care payments shall be allowed.

c. Job club participants other than designated parents on FIP-UP cases who obtain employment of 86 or more but less than 129 hours per month may discontinue job club at their option.

d. Job club participants who, during participation, obtain part-time employment of less than 86 hours per month shall continue job club unless the scheduled job club hours conflict with the scheduled hours of employment. PROMISE JOBS participation shall be scheduled to occur during those hours where no conflict with work hours exists.

e. Refer to rule 441—93.22(249C) for job club participation requirements for FIP-UP qualifying parents.

93.12(2) Individual job search. The individual job search component shall be available to participants for whom job club is not appropriate or not available. It is especially to be considered for participants who have completed training or have recent ties with the workforce. The total period for each episode of individual job search shall not exceed 12 weeks or 3 calendar months.

a. The participant shall, in consultation with PROMISE JOBS staff, design and provide a written plan of the individual job search activities. The plan shall contain a designated period of time, not to exceed four weeks or a calendar month, and the specific locations of the job search. It shall also contain, but not be limited to, information as specific as possible pertaining to, for example, areas of employment interest and employers to be contacted.

b. Participants who choose individual job search shall receive a child care allowance, if required, and an allowance as described at 93.10(6) to cover costs of transportation, if required.

(1) Payment for required child care shall be limited to 20 hours per week.

(2) The transportation allowance shall be paid in full at the start of each designated time period of the individual job search. The anticipated days for job search shall be included in the written plan so as to provide the most effective use of transportation funds. Transportation allowances for any missed days of job search activity shall be subject to transportation overpayment policies as described at 93.10(8).

93.12(3) Self-directed job search. PROMISE JOBS participants who indicate, during assessment I, a desire to complete an independent job search or who have achieved an employability plan interim goal which should lead to employment shall be provided the option of first

engaging in self-directed job search activities before beginning other employability plan options. This option does not apply to parents under the age of 20 who are required to participate in high school completion activities and FIP-UP designated parents who are aged 20 and over.

a. The participant shall, in consultation with PROMISE JOBS staff, design and provide a written plan of job search activities. The plan shall contain a designated period of time, not to exceed four weeks or a calendar month, and the specific locations of the job search. It shall also contain, but not be limited to, information as specific as possible pertaining to, for example, areas of employment interest and employers to be contacted.

b. The participant will not be required to provide documentation of the job search activities.

c. Transportation and child care allowances are not available for this job search option.

441—93.13(249C) Thirty-day suspension period. Rescinded IAB 12/8/93, effective 1/1/94.

441—93.14(249C) Assignment to vocational classroom training. Participants who demonstrate capability and who express a desire to participate shall be considered for enrollment in the PROMISE JOBS classroom training component. This component shall also be used to fund the costs of ABE, GED, or ESL and other high school completion activities described in these rules.

93.14(1) Classroom training means any academic or vocational training course of study which enables a participant to complete high school or improve one's ability to read and speak English, or which prepares the individual for a specific professional or vocational area of employment. A training plan shall be based on occupational evaluation and assessment as obtained in accordance with the assessment processes described at rule 441—93.11(249C).

a. The plan shall be approved for training facilities which are approved or registered with the state or accredited by an appropriate accrediting agency. Institutional training can be provided by both public and private agencies.

b. In addition, PROMISE JOBS workers may approve training from community action program agencies, churches, or other agencies providing training, if in the worker's judgment, the training is adequate and leads to the completion of the goal outlined in the employability plan.

c. Training from a particular training facility, community action program agency, church or other agency shall be approved when the worker determines that the training provider possesses appropriate and up-to-date equipment, has qualified instructors, adequate facilities, a complete curriculum, acceptable grade point requirements, a good job-placement history and demonstrates expenses of training that are reasonable and comparable to the costs of similar programs.

d. A participant's request for classroom training services shall be denied when it is determined through assessment that the participant will be unlikely to successfully complete the requested program. Form SS-1104-0, Notice of Decision-Services, shall be issued to the participant to inform the participant that the request for training is denied.

93.14(2) All family members who meet classroom training eligibility criteria shall be eligible for all program benefits, even when two or more family members are simultaneously participating and even if participation is at the same training facility and in the same program.

93.14(3) Academic workload requirements. With the exceptions noted below, participants are expected to maintain a full-time academic workload and to complete training within the time frames specified for a given training program as established by the training facility.

a. Months spent in ABE, GED, or ESL program do not count toward the time limits described below.

b. For purposes of the following participation limitations a month of participation is defined as a fiscal month or part thereof starting with the month PROMISE JOBS classroom

training services begin. A fiscal month shall generally have starting and ending dates falling within two calendar months but shall only count as one month of participation.

c. Months of participation need not be consecutive.

d. Except for designated parents on FIP-UP cases, the client shall be allowed to maintain less than a full-time workload provided that the months required to complete the training plan would not exceed 30 fiscal months for two-year degree programs and other vocational programs or 40 fiscal months for three- or four-year degree programs.

e. Designated parents on FIP-UP cases who are working at least 20 hours per week in a work experience activity shall be allowed to maintain less than a full-time academic workload provided that the months required to complete the training plan would not exceed 40 fiscal months for two-year degree programs and other vocational programs or 50 fiscal months for three- or four-year degree programs.

93.14(4) Clients enrolled in ABE, GED, or ESL programs must be able to complete training in the time determined by testing unless the PROMISE JOBS worker and, if appropriate, the client's academic advisor or instructor agree that additional time should be allowed. Under no circumstances, however, shall more than six additional months be allowed. Additional time shall not be allowed if, as a result, months required to complete training would exceed 24 for ABE or GED or 12 months for ESL.

93.14(5) Clients who have not completed a high school education may be required to do so before other vocational training courses may be arranged. GED or high school training courses and vocational training may run concurrently. Unless under the age of 18, clients may be approved to return to regular high school only when they can graduate within one year of their normal graduation date.

93.14(6) Testing and grade transcripts before training plan approval. Prior to training plan approval and as part of the continuing assessment process described at rule 441—93.11(249C), staff may require that clients take nationally recognized vocational tests, including the general aptitude test battery, as well as provide grade transcripts from previous training.

93.14(7) Testing prior to plan approval. Prior to plan approval for a client requesting GED, adult basic education, or English as a second language training, testing shall be conducted, when available, to determine a projected length of time for which the plan shall be approved. In regard to GED testing, a transportation allowance as described at subrule 93.10(6) and child care expenses shall be allowed if required in order for the client to participate.

93.14(8) Academic achievement requirements. Clients shall maintain the minimum cumulative grade point average required by the training facility which the client attends. If at the end of any term, a client's cumulative grade point average drops to less than that required by the training facility, the client shall be placed on probation for the next term when the counselor or the lead instructor in the educational program verifies in writing that the student's capability to complete the program has been demonstrated through regular class participation, practical application of course content, or successful work in other courses so that there is an excellent likelihood the student will raise the grade point to the acceptable level in the next semester, that the student will be able to raise the grade point average to the acceptable level through successful completion of the remaining course work and tests, and that the student can still be expected to complete the program satisfactorily within the maximum participation period as required by subrule 93.14(3). This rule does not apply to parents under the age of 18 who are attending high school completion programs.

93.14(9) Clients are expected to maintain a full-time workload as defined by the training facility unless the department or designee has given approval to carry fewer hours in accordance with other requirements of these rules, for example, subrule 93.14(3).

93.14(10) Client responsibilities for plan approval. In order to have a plan approved, clients have the following responsibilities:

a. Rescinded IAB 5/13/92, effective 7/1/92.

b. A client must provide all information required to approve an Employability Plan, Form WI-3304-0, for vocational classroom training.

c. Prior to plan approval, and for each academic year of participation, clients shall apply for and accept all available educational financial awards for which they are eligible, including grants and scholarships, but excluding educational loans which require repayment. Training allowances will be authorized to permit enrollment and attendance prior to receipt of educational awards. Otherwise, training allowances shall be authorized only when all educational awards received by the client have been used or allocated, on a month-by-month basis, for allowable training costs in the following payment order: tuition, fees, books, basic school supplies, specific supplies (including tools) related to obtaining credit for a course and required of all students in a course, child care and transportation, and travel costs required for certification or testing. Use of educational awards to pay tuition shall be limited to the actual cost of tuition. Use of awards to pay fees, books, supplies and child care shall be limited to that amount that otherwise would be paid by the program. Use of awards to pay for basic school supplies shall be limited to the standard \$10 allowance described at subrule 93.15(1) or the actual cost, whichever is higher. Actual costs which are claimed in excess of the standard \$10 deduction shall be verified by receipts. Use of awards to pay transportation or travel costs for certification or testing shall be limited to the amount determined by the policies as described at subrule 93.10(6).

(1) A client whose classroom training plan is approved after a term starts may use educational awards issued for that term but received after plan approval to reimburse costs of the term incurred prior to plan approval. A term is defined as a quarter, semester or other period of time established by a training facility. Costs cannot have been paid with educational awards which do not require repayment. Reimbursement shall not exceed the rate that PROMISE JOBS would have allowed.

(2) Clients who pursue non-PROMISE JOBS-authorized electives which are related to but not required for their major and who qualify for financial awards solely as a result of taking these electives shall use the awards to cover allowable costs of the electives which include tuition, fees, books and supplies. Remaining award moneys shall then be used to pay tuition, fees, books and supplies of PROMISE JOBS-approved courses taken during the same term. Any remaining funds after tuition, fees, books, and supply costs are paid shall be used to pay child care, transportation and travel costs for certification or testing.

(3) Clients are authorized to decline any financial aid that would result in a reduction of the client's FIP assistance.

(4) Clients attending private training facilities where the tuition exceeds the amount the program can pay shall retain award moneys to pay the annual difference between actual tuition cost and the maximum tuition amount the department can pay.

(5) Clients who elect to accept educational loan moneys in any amount may use these moneys at their discretion.

93.14(11) Approvable training plans. In order to have a plan approved, the plan must meet certain criteria:

a. Training plans shall include a specific goal, that is, high school completion, improved English skills, development of specific academic or vocational skills, completion of which shall not exceed a maximum of 24 months of participation to complete high school, GED, or adult basic education, a maximum of 12 months to complete English as a second language classes, a maximum of 30 months (or 40 months for designated parents on FIP-UP cases) to complete two-year programs leading to an associate degree or vocational programs which do not lead to a degree, and a maximum of 40 months (or 50 months for designated parents on FIP-UP cases) to complete three- or four-year programs leading to a baccalaureate degree. Up to an additional 12 months of ESL training may be allowed when need is determined by PROMISE JOBS staff. If the client is under the age of 18, the 24-month maximum to complete high school activities does not apply.

b. Training may be approved for high school completion activities, adult basic education, GED, English as a second language, and postsecondary education up to and including a baccalaureate degree program. In addition, the following training may be approved:

(1) Previously completed courses or training only when intended as a brush up.

(2) Correspondence courses only when the courses are required but not offered by a training facility attended by the client.

(3) Out-of-state training only when similar training is not available in-state, when required relocation to attend an in-state facility would be unnecessary by attending an out-of-state facility, or the only in-state facilities within commuting distance are private schools where tuition charges are higher than an out-of-state facility which is within commuting distance.

(4) College programs which lead to an associate of arts. Baccalaureate degree programs for clients not first pursuing an associate of arts degree may be approved only when the client has already earned all freshman credits and can enter the training facility as a sophomore.

(5) Continuing advanced training in the same vocational area, providing this training combined with previously completed training under this program does not exceed the maximum participation limits as described in subrule 93.14(3).

(6) Clients who complete a PROMISE JOBS-funded training program or who participate in PROMISE JOBS-funded training for the maximum participation limit as described in subrule 93.14(3) without completing the training program shall be considered for a new maximum participation period of training in a different vocational area only when a minimum of five years has elapsed since training was completed or the maximum participation period ended, unless labor market statistics document that employment is not available in the field in which the original training was received or the client has been unable to find employment in that field, despite a good faith effort, within two years of completing the training program or within two years of the end of the maximum participation period. Clients who drop out of a training program within the maximum participation period as described in subrule 93.14(3) and later reapply for classroom training shall be entitled only to any remaining months in the original maximum participation period.

(7) Prerequisite courses when they are required by a specific training program. Clients who fail to earn required grades for admission to a chosen program will not be approved to repeat these courses.

(8) Remedial course work for one term when need is determined by testing conducted by the training facility.

(9) Summer school only when it does not result in additional PROMISE JOBS expenditures over those of a normal academic year unless required classes are only available during summer session, participation reduces the total length of time required to complete training, or summer attendance is required to maintain normal academic progress as defined elsewhere in these rules.

(10) College course work, other than for an advanced degree, for clients already possessing a baccalaureate degree in order to obtain a teaching certificate.

(11) Continuing education units for clients only when needed to be recertified or retrained to reenter a field in which they were previously trained or employed.

c. No plan shall be approved for the following:

(1) The duration of the plan exceeds the known length of time during which the client will remain eligible for family investment program assistance.

(2) When available labor market statistics for a local area indicate low employment potential. Exceptions may be made when the client has a job offer prior to entering the training or if a client is willing to relocate after training to an area where there is employment potential. Clients willing to relocate must provide documentation from the department of employment services, private employment agencies, or employers that jobs paying at least minimum wage for which training is being requested are available in the locale specified by the client.

(3) Jobs paying less than minimum wage.

(4) College course work for a client who possesses a baccalaureate degree unless course work is to obtain a teaching certificate or complete continuing education units in accordance with policy elsewhere in these rules.

(5) Plans containing requests for rings, pins, pictures, rental of graduation gowns, elective courses which require, in addition to books, expenditures for special equipment, for example, photography or art supplies, or field trips; and other items that are not required to complete training for a vocational goal.

(6) It is intended that clients shall become employed immediately after completing training. A training plan shall therefore be denied when a client states no intent of pursuing employment after training is completed.

(7) The course or training is one which the client has previously completed.

(8) The client was previously unable to maintain the cumulative grade point average required by the training facility in the same training for which application is now being made. This rule does not apply to parents under the age of 18 who are enrolled in high school completion activities.

(9) Training may be denied in any vocational area where PROMISE JOBS classroom training statistics or statistics from the former individual education and training plan program, based on statistics for the 24-month period prior to the date of application, document that the training completion rate or the entry to employment rate is less than 25 percent.

d. When a person described at 93.11(1)“a”(4) or 93.11(1)“a”(5) is still within the first quarter or semester of involvement in the person’s chosen training program, expense allowances cannot be approved, even if the training is otherwise approvable, until the person has completed assessment or has successfully completed the first quarter or semester of the training program in accordance with the requirements of the educational institution. Persons involved in training programs where quarters or semesters are not used must successfully complete four months of the training program before assistance can begin.

Assistance shall be approved effective with the second quarter or semester, or with the fifth month of participation in the training program, as applicable to the client’s situation.

93.14(12) Participation allowances. An allowance shall be made for expenses of training. This shall include tuition; fees, including graduation, books, basic school supplies, specific school supplies related to obtaining credit for a course and required of all students in a course, GED testing and certificates, required uniforms, and other fees required for completion of training; child care; and transportation and travel costs required for certification or testing. In addition, allowances shall be made for enrollment, school testing or school application fees, educational grant or scholarship application fees, and certain practicum expenses as described at 93.14(12)“a”(4). PROMISE JOBS is authorized to provide payment for expenses allowable under these rules to the training facility for the educational expenses of tuition and fees and books and supplies which are provided by the facility and billed to the PROMISE JOBS participant. Payment may also be made to the client in those situations where this is determined to be appropriate by the PROMISE JOBS worker.

a. PROMISE JOBS allowances for classroom training are limited as follows:

(1) Tuition allowance for baccalaureate degree programs shall not exceed the maximum undergraduate Iowa resident rate charged by a state university in Iowa.

(2) Tuition allowances for all other programs shall not exceed the rate charged by the state of Iowa area school located nearest to the participant’s residence which offers a course program comparable to the one in which the participant plans to enroll. If an area school in Iowa does not offer a comparable program, the maximum tuition rate payment shall not exceed the Iowa resident rate charged by the area school located nearest to the participant’s residence.

(3) A standard allowance of \$10 per term or actual cost, whichever is higher, for basic school supplies shall be allowed for those participants who request it and who do not have sufficient educational financial awards to cover purchase of basic supplies or who must purchase basic

school supplies before educational awards are received or are made available. A claim for actual costs higher than \$10 must be verified by receipts.

(4) A per diem allowance of \$10 for living costs during a practicum shall be allowed when the practicum required by the curriculum of the training facility would require a round-trip commuting time of three hours or more per day and is not available closer to the client's home. If practicum earnings or any nonreimbursable assistance is available to meet practicum living costs, no allowance shall be made.

(5) Allowances may also be authorized to meet the costs of travel required for certification and testing, not to exceed the transportation allowance as described at 93.10(6) and the current state employee reimbursement rate for meals and lodging.

(6) No allowance shall be made for any item that is being paid for through earnings that are diverted for that purpose.

(7) Funds may not be used to purchase supplies to enable a participant to begin a private business.

b. Participants shall submit Form PA-8121-5, Estimate of Cost, to initiate allowances or change the amount of payment. Participants shall use PROMISE JOBS allowances which they receive to pay authorized expenses.

c. Participants shall furnish receipts for expenditures which they pay, except for transportation allowances and items purchased with the \$10 standard allowance for basic school supplies, unless issued in accordance with 93.14(12) 'a'(3), within ten days of receipt of allowances. Failure to provide receipts will preclude additional payments.

d. Receipts may be requested for allowances paid directly to the training provider if the PROMISE JOBS worker determines it is appropriate.

93.14(13) Payment of allowances.

a. Participant eligibility for payment of transportation and child care allowances shall commence for that month that the participant begins training under an approved plan or is removed from a waiting list as described at 93.5(3), whichever is later, and shall be terminated when training is terminated.

b. PROMISE JOBS responsibility for financial assistance begins with that month during which the participant begins training under an approved plan or is removed from a waiting list as described at 93.5(3), whichever is later.

c. Retroactive payments shall only be allowed under the following conditions:

(1) If plan approval or removal from a waiting list as described at 93.5(3), whichever is later, occurs after the start of the term due to administrative delay or worker delay, payments shall be approved retroactive to the start of the term for which the plan is approved or removal from the waiting list is authorized. If costs were already paid by the participant with private resources, the participant shall be reimbursed. Payment shall be approved for all expenses allowable under these rules.

(2) If plan approval or removal from a waiting list as described at 93.5(3), whichever is later, is delayed due to the suspension of FIP benefits, retroactive payments for the month of suspension shall be made. If costs were already paid by the participant with private resources, the participant shall be reimbursed.

(3) If plan approval is delayed due to the fault of the participant, payment eligibility shall begin with the first day of the month during which the plan is approved or the month in which the participant is removed from a waiting list as described at 93.5(3), whichever is later. In this instance, there shall be no reimbursement for training costs already paid by the participant.

d. In all instances reimbursements shall not be made if costs were paid with educational awards that are not subject to repayment.

e. When a participant receives transportation payment from another program which equals or exceeds that possible under PROMISE JOBS, transportation shall not be paid by PROMISE JOBS for any month covered by the other programs. When the amount received from another

program is less than that possible under PROMISE JOBS, a supplemental payment may be made as long as the combined payment does not exceed that normally paid by PROMISE JOBS.

f. Payments shall not exceed the rate that the provider would charge a private individual.

93.14(14) Completion or termination of a training plan.

a. Participants who successfully complete their training plans may keep any books or supplies, including tools, which were purchased with PROMISE JOBS funds.

b. Participants who do not complete their training program and do not obtain training-related employment within 60 days of leaving training shall return all reuseable supplies, including books and tools but not clothing, purchased by PROMISE JOBS.

(1) Staff are authorized to donate to nonprofit organizations any items which they determine are unusable by the program.

(2) When tools are not returned, the amount of the PROMISE JOBS payment shall be considered an overpayment unless the participant verifies theft of the tools through documentation of timely report to a law enforcement agency.

c. When a participant enrolled in the classroom training component drops out of training without good cause, or the training plan is terminated for failure to comply with PROMISE JOBS requirements as specified at 93.14(14) "*d*," "*e*," and "*f*," the participant shall be denied additional PROMISE JOBS-funded classroom training services for a minimum of one year from the time that the participant dropped out, or from the time that the training plan was terminated for failure to comply with PROMISE JOBS requirements. This one-year period of denied classroom training service does not apply to participants who are under the age of 18 and who are required to participate in high school completion activities.

d. A worker shall terminate a training plan for any of the following reasons:

(1) The participant fails to appear for two consecutive scheduled appointments with the worker without good cause. The client shall have been notified of the appointments in writing.

(2) The participant, after a school term of probation as described in 93.14(8), is unable to achieve the cumulative grade point average required by the training facility. This rule does not apply to parents under the age of 18 who are enrolled in high school completion activities.

(3) The participant refuses or fails to apply for outside funding resources when it is known that these sources are available.

(4) The participant misuses expense allowances to the extent that the training plan is no longer achievable.

(5) The participant states that there is no intent to become employed after completing training.

(6) The participant fails to provide verification, as described at 93.35(2), of hours of attendance in an educational program.

e. The training plan shall be terminated immediately for any participant who knowingly provides receipts or any other written statements which have been altered, forged, or, in any way, are not authentic.

f. A worker may terminate a training plan for any of the following reasons:

(1) The participant fails to cooperate in providing information concerning grades, academic progress, financial resources, change of address, change of telephone number, or change of family composition.

(2) It can be documented that the participant's continuation in the training program is detrimental to family functioning.

(3) The participant withdraws from courses or from the training program without prior PROMISE JOBS approval.

g. When it becomes apparent that the participant cannot complete the training plan within the maximum participation limit, as described at 93.14(3), the PROMISE JOBS worker shall determine whether termination of the training plan is appropriate.

(1) When the participant cannot complete the training plan within the maximum participation limit as described at 93.14(3), the worker shall continue the plan and pay expenses, if appropriate, up to the limit of the maximum participation limit when the counselor or lead

instructor in the educational program verifies in writing that the student's progress or achievements meet the grade-point requirement, and the student's interest and participation indicate there is likelihood of successful completion of the program, and the remaining coursework could be completed with the additional six-month period of time. In addition, the student must be able to demonstrate access to financial resources which will enable completion of the program during the additional six months.

(2) In addition, when it is determined that the participant can complete the training plan within six months after the expiration of the maximum participation limit described at 93.14(3), the worker shall waive participation in other components after the end of the maximum participation period as long as the participant is attending the training facility.

(3) The PROMISE JOBS worker shall terminate the training plan at the point in time when it becomes obvious that the participant cannot complete the training plan within six months after expiration of the maximum participation period described at 93.14(3).

h. Unless the participant will be subject to the conciliation process described at 441—subrules 41.1(7) and 41.4(8), when the PROMISE JOBS worker issues a Notice of Decision: Services, Form SS-1104-0, to terminate the training plan, the participant has 30 days from the date of the notice to discuss the situation with the PROMISE JOBS worker and attempt to resolve the issues causing termination. If the issue can be resolved, the PROMISE JOBS worker shall reinstate the training plan. This rule in no way affects the participant's ability to appeal the Notice of Decision: Services in accordance with rule 441—93.40(249C).

i. Participants whose PROMISE JOBS training plans are terminated for misuse of funds or for providing records which they have falsified, or participants who fail to return supplies, when required, shall not be eligible for future classroom training services for a period of two years from the date of plan termination.

(1) In addition, future classroom training services shall not be approved unless receipts for previous allowances are provided; PROMISE JOBS-funded items, when required, are returned; or the value of the items is refunded.

(2) When the amount of the PROMISE JOBS payment for tools has been considered an overpayment as described at 93.14(14)“b”(2), the participant may refund the claim balance as recorded in the overpayment recovery system to meet this requirement.

441—93.15(249C) Unpaid community service. Unpaid community service shall provide participants with opportunities to establish or reestablish contact with the work force in a non-threatening environment while providing services which are of direct benefit to the community.

93.15(1) Unpaid community service work sites. Unpaid community service work sites shall be public or private nonprofit organizations.

a. When the participant and the PROMISE JOBS worker agree that an unpaid community service placement is appropriate, the participant is responsible for locating and making arrangements with the work site.

b. The PROMISE JOBS provider agencies shall develop local listings of potential unpaid community service work sites which participants can use when selecting a work site.

c. Work site organizations which provide unpaid community service work sites shall receive a written explanation of the following placement criteria. The placement shall:

(1) Not be related to political, electoral or partisan activities.

(2) Not be developed in response to or in any way associated with the existence of a strike, lockout or other bona fide labor dispute.

(3) Not violate any existing labor agreement between employees and employer.

(4) Comply with applicable state and federal health and safety standards.

(5) Not be used by work site organizations to displace current employees or to infringe on their promotional opportunities, shall not be used in place of hiring staff for established vacant positions, and shall not result in placement of a participant in a position when any other person is on layoff from the same or an equivalent position in the same unit.

93.15(2) *Appropriate use of unpaid community service.* The unpaid community service component is expected to be used by participants for whom more intensive efforts toward self-sufficiency are not appropriate at the moment. Participants may combine this activity with another such as, but not limited to, GED or other high school completion, ESL, FaDSS or other family development services, and parenting skills training. It is expected that the unpaid community service work site will be less demanding than work experience placements and specific skills-training tasks are not required.

93.15(3) *Participation requirements.*

a. Formal interviews are not required to establish the relationship between the participant and the work site organization.

b. The length of the work site assignment and the weekly hours of participation shall be determined through agreement among the work site organization, the participant, and the PROMISE JOBS worker.

c. The director (or designee) of the work site organization shall be asked to verify the monthly hours of participation using Form 470-3097, Unpaid Community Service Monthly Report, provided by the PROMISE JOBS provider agencies.

93.15(4) *Allowances for unpaid community service placement.* Unpaid community service work sites may offer on-site child care and other participant-friendly services. A child care allowance and a transportation allowance for each month of participation or part thereof, as described at 93.10(6), shall be paid if these services are not provided by the work site organization and are required for participation.

441—93.16(249C) *Parenting skills training.* Activities which strengthen the participant's ability to be a better parent can be approvable training under PROMISE JOBS as long as the participant is active in at least one other PROMISE JOBS component. Approvable parenting skills training could be enrollment in a parenting education program or any other arrangement which provides specific parenting skills training.

A child care allowance, payment for fees or books, and a transportation allowance for each month of participation, or part thereof, as described at 93.10(6), shall be paid if these services are not provided by any other entity and are required for participation.

441—93.17(249C) *Health and safety.* The PROMISE JOBS staff may require a person to complete a physical examination prior to including a particular PROMISE JOBS component or other activity in the employability plan when a participant specifies or exhibits any physical conditions which might jeopardize successful participation in the program.

93.17(1) *Physician's report.* The physician should indicate to the best of the physician's knowledge that the person is capable of completing the PROMISE JOBS component or other activity or continuing with appropriate employment.

93.17(2) Rescinded IAB 12/8/93, effective 1/1/94.

93.17(3) *Safety precautions.* If the work or training activity is so hazardous that safety glasses, hard hats, and so forth are needed, participation shall not be arranged or approved unless these safety precautions are available.

441—93.18(249C) *Self-initiated training.* Rescinded IAB 12/8/93, effective 1/1/94.

441—93.19(249C) *Payment of allowances.* Rescinded IAB 12/8/93, effective 1/1/94.

441—93.20(249C) *Completion or termination of a plan.* Rescinded IAB 12/8/93, effective 1/1/94.

441—93.21(249C) Assignment to work experience.

93.21(1) Work experience requirements. Work experience shall combine work site assignment and job search activities.

a. Participants who choose work experience placement shall be assigned to work sites on a schedule which uses eight hours per day, between the hours of 8 a.m. and 6 p.m., Monday through Friday, unless the participant agrees to another schedule. The number of days per week shall be determined by agreement among the participant, the sponsor, and the PROMISE JOBS worker, with a maximum of four days and a minimum of one day. The number of days, the scheduled hours, and the length of the assignment shall reflect the assessed needs of the participant and the needs of the sponsor, using the standard that participation shall be equivalent to the level of commitment required for full-time employment or significant so as to move toward that level.

b. Work experience placements may be combined with part-time employment or with participation in other PROMISE JOBS activities such as, but not limited to, GED or other high school completion activities, parenting skills training, postsecondary classroom training, or placement on a PROMISE JOBS waiting list for postsecondary classroom training.

c. In addition to work experience placement, participants shall also engage in job-seeking activities one day per week unless they are also participating in classroom training activities.

Job-seeking activities for work experience participants shall include contacting a minimum of five employers per week unless fewer are specified by staff. Job search contacts shall be documented with Form 470-3099, Job Search Record, as described at 93.35(3).

d. Each work experience assignment shall not exceed six months in duration. Persons who complete a work experience assignment may move to another option as provided under the employability plan, be assigned to a different work site, or be reassigned to the same work site, whichever is appropriate under the employability plan.

e. Participants who are assigned to work experience may move to another component to facilitate regular employment before completing the months of the assignment when it is felt that sufficient work experience has been gained.

93.21(2) Work sites shall provide participants with work experience and on-the-job training opportunities while providing services which are of direct benefit to the community. Work sites shall be limited to public and nonprofit agencies. Participants may be placed at work sites with religious institutions only when work performed is nonsectarian and not in support of sectarian activities. Participants may not be used to replace regular employees in the performance of nonsectarian work for the purpose of enabling regular employees to engage in sectarian activities.

93.21(3) Employers who participate in the work experience program shall be referred to as sponsors. Sponsors who request work experience participant placements shall complete Form WI-3302-0, Sponsor's Request for WEP Placement, for each type of position which they wish to fill and shall include a complete job description specifying all tasks to be performed by the participant. Work experience positions must contain the same job description and performance requirements that would exist if the sponsor were hiring an individual for the same position. PROMISE JOBS has final authority to determine suitability of any work experience position offered by a sponsor. Work experience positions must meet additional criteria as follows:

a. Shall not be related to political, electoral or partisan activities.

b. Shall not be developed in response to or in any way associated with the existence of a strike, lockout or other bona fide labor dispute.

c. Shall not violate any existing labor agreement between employees and employer.

d. Shall comply with applicable state and federal health and safety standards.

e. Shall not be used by sponsors to displace current employees or to infringe on their promotional opportunities, shall not be used in place of hiring staff for established vacant positions,

and shall not result in placement of a participant in a position when any other person is on layoff from the same or an equivalent position in the same unit.

93.21(4) Vocational skills and interests which the registrant possesses shall be matched as closely as possible with the job description and skills requirement specified by the sponsor.

93.21(5) Participants shall interview for and accept positions offered by work experience sponsors. Participants shall present Form WI-3303-0, Referral for WEP Placement, to the sponsor at the interview. The form shall be completed by the sponsor and returned to PROMISE JOBS.

93.21(6) Although sponsors are expected to accept for placement work experience referrals made by PROMISE JOBS, sponsors may refuse any referrals they deem inappropriate for the position which they have available. Sponsors shall not discriminate because of race, color, religion, sex, age, creed, physical or mental disability, political affiliation or national origin against any program participant. Sponsors who refuse a referral must notify PROMISE JOBS staff in writing of the reason for the refusal.

93.21(7) Sponsors shall complete and provide a monthly evaluation of the participant's performance using Form WI-1103-5, Work Experience Participant Evaluation, to PROMISE JOBS and the participant.

93.21(8) Sponsors shall complete Form WI-1103-5, Work Experience Participant Evaluation, at the time of termination for each work experience participant. When termination occurs at sponsor request the sponsor shall specify the reason for termination and identify those areas of individual performance which were unsatisfactory. For participants who leave to accept regular employment or reach their work experience placement time limit, the sponsor's evaluation shall indicate whether or not a positive job reference would be provided if the participant requested one.

93.21(9) Allowances for work experience placements. Participants assigned to work experience shall receive a child care allowance, if required, and a transportation allowance for each month or part thereof as described at subrule 93.10(6). The portion of the transportation allowance for job-seeking activities shall be determined by including the day of the job search obligation in the normally scheduled days used in the formulas described at subrule 93.10(6).

98.21(10) Required clothing and equipment. Clothing, shoes, gloves, and health and safety equipment for the performance of work at a work site under the program, which the participant does not already possess, shall be provided by the entity responsible for the work site or, in the case of safety equipment which the work site entity does not normally provide to employees, through PROMISE JOBS expense allowances. Under no circumstances shall participants be required to use their assistance or their income or resources to pay any portion of their participation costs.

a. Items which are provided by the entity responsible for the work site shall remain the property of the entity responsible for the work site, unless the participant and the entity agree to a different arrangement.

b. Safety equipment which the entity responsible for the work site does not normally provide to employees, including, but not limited to, steel-toed shoes, may be provided through PROMISE JOBS expense allowances up to a limit of \$100 per participant per work site assignment.

441—93.22(249C) FIP-UP work program. When required to meet the federal requirements as described at 93.5(1)“c,” one parent from any FIP-UP case shall be enrolled into the FIP-UP work program upon call-up by PROMISE JOBS. When both parents are mandatory PROMISE JOBS participants or when one parent is a mandatory participant and one is a volunteer, the PROMISE JOBS worker shall consult with the parents before responsibility is assigned for the FIP-UP work program participation. When one parent is mandatory and one is exempt, the exempt parent may volunteer for PROMISE JOBS in order to fulfill the

responsibility for the FIP-UP work program participation. The parent obligated or chosen to fulfill this responsibility shall be known as the designated parent and the employability plan shall include the appropriate FIP-UP work program activities for the designated parent.

93.22(1) *Activities of the FIP-UP work program.* The FIP-UP work program will provide orientation, assessment I, job club, and work experience activities for the designated parent.

93.22(2) *Designated parent referral to JTPA.* FIP-UP designated parents who do not find employment of 129 hours or more per month before completing job club shall be immediately referred to JTPA for work experience placement.

93.22(3) *Educational activities for FIP-UP designated parents under the age of 25.*

a. FIP-UP designated parents under the age of 20 who have not completed high school or an equivalent course of education shall meet program participation requirements described at 93.5(1) "c" by participating in educational activities such as high school completion and GED as described at subrule 93.11(11) and English as a second language.

b. FIP-UP designated parents aged 20 through 24 who have not completed high school or an equivalent course of education will meet the FIP-UP work program participation requirement if they are participating in educational activities such as high school completion, GED, English as a second language, and adult basic education (ABE) and these activities are included in an employability plan.

93.22(4) *Applicable rules.* All rules promulgated under 441—Chapter 93, Division I, shall apply to designated parents on FIP-UP cases unless otherwise noted.

93.22(5) *Work experience assignment for FIP-UP designated parents.*

a. Designated parents on FIP-UP cases shall be assigned to work sites three days per week, eight hours per day, between the hours of 8 a.m. and 6 p.m., Monday through Friday, unless the participant agrees to another schedule, for six-calendar-month periods, at the end of which the participant shall be reassessed and, if appropriate, the designated parent's employability plan shall be revised. This revision may include assignment to a different work site, if one is available, or reassignment to the same work site, whichever is appropriate.

b. After each reassessment, a designated parent shall then be reassigned to a work site for another six-calendar-month period.

93.22(6) *Recycling for FIP-UP designated parents.* When a designated parent has completed three six-calendar-month periods of work experience, the designated parent shall be referred to the first available job club activity at employment services. The participant shall remain in the work experience activity until transfer directly into a job club activity is possible. At the end of the job club activity, the designated parent shall be transferred back to JTPA for assignment to work experience with 30 days of transfer from employment services.

441—93.23(249C) Participation required. Rescinded IAB 3/3/93, effective 5/1/93.

441—93.24(249C) Referral for UP-CWEP services. Rescinded IAB 3/3/93, effective 5/1/93.

441—93.25(249C) JTPA UP-CWEP responsibilities. Rescinded IAB 3/3/93, effective 5/1/93.

441—93.26(249C) UP-CWEP provider agency responsibilities. Rescinded IAB 3/3/93, effective 5/1/93.

441—93.27(249C) Assignment to UP-CWEP work sites. Rescinded IAB 3/3/93, effective 5/1/93.

441—93.28(249C) UP-CWEP relationship with job search activities. Rescinded IAB 3/3/93, effective 5/1/93.

441—93.29(249C) Sanctions for volunteers. Volunteer participants who refuse or fail to cooperate prior to completion of an employability plan shall have PROMISE JOBS referral status changed to exempt by the income maintenance worker, but they shall not be subject to a financial or volunteer sanction. However, volunteers who refuse to participate after completion of an employability plan shall be deactivated from the PROMISE JOBS program after completion of the conciliation process described at 441—subrule 41.4(8). Volunteers are not subject to financial sanctions. Volunteer participants who fail to participate shall be placed on probation in the same manner as mandatory participants in accordance with rule 441—93.32(249C). A volunteer who is deactivated from the program for failure to participate shall not be eligible for priority program services as long as other clients are waiting for services.

441—93.30(249C) Sanctions for mandatory participants aged 16 or 17 who are required to participate in high school completion activities. Mandatory participants who fail to participate during orientation or assessment or in the referral to the local education agency or GED program, whichever is applicable, shall be placed on probation. A second failure to comply shall result in sanction. A person who fails to participate or cooperate with attendance and participation requirements of the local education agency or GED program, whichever is applicable, shall be placed on probation. A second failure to cooperate shall result in sanction. The participant shall also be sanctioned under the circumstances described in subrules 93.32(13) and 93.32(15). Sanctions are described in 441—subrule 41.4(7).

441—93.31(249C) Failure to participate in classroom training. Mandatory participants who fail to participate in classroom training shall be referred for participation in other PROMISE JOBS activities unless the client is younger than age 18. A participant aged 16 or 17 who fails to participate in high school completion activities shall be sanctioned in accordance with the penalties and time frames specified in these rules.

441—93.32(249C) Sanctions for mandatory participants aged 18 or older for failure to participate. Mandatory participants who fail to participate during orientation, assessment or in component activities other than classroom training and in accordance with other requirements specified in these rules shall be sanctioned as described in 441—subrule 41.4(7).

Sanctionable issues for participants aged 18 or older who fail to participate at any time from the point of call-up are as follows:

93.32(1) Participants who, without good cause, are more than 15 minutes late on two occasions shall be placed on probation; a third lateness within three months of the first lateness shall result in sanction.

93.32(2) Participants who, without good cause, fail to appear for scheduled appointments, participate in appraisal activities, complete required forms, or take required vocational or aptitude tests, or are absent from any program assignments shall be placed on probation. A second failure without good cause shall result in sanction.

93.32(3) Unexcused absence. Participants who fail to notify work experience sponsors or PROMISE JOBS staff of absence within one hour of the time at which they are due to appear shall be considered to have incurred an unexcused absence. Two unexcused absences shall result in sanction.

93.32(4) Participants who exhibit disruptive behavior shall be placed on probation; a second offense shall result in sanction. Disruptive behavior means the participant hinders the performance of other participants or staff, refuses to follow instructions, uses abusive language, or is under the influence of alcohol or drugs.

93.32(5) Participants who fail to secure required physical examinations shall be sanctioned.

93.32(6) A participant who continues an offense after being notified that the participant's behavior is disruptive and in what manner it is disruptive shall be sanctioned.

441—93.34(249C) Removing a sanction.

93.34(1) A sanction may be removed after the required duration has elapsed and a client satisfies the requirements of either "a," "b," or "c" below.

a. If the sanction resulted from failure to participate in assessment or to sign an employability plan, the sanction shall be lifted once the employability plan is signed or five work days of participation in assessment activities has occurred, whichever is shorter.

b. If the sanction resulted from failure to participate in component activity, the sanction shall be removed after the client has participated five work days in the component in which sanction occurred.

c. If no activity is available, the sanction is considered to have terminated the day the client agrees to participate.

93.34(2) Once the conditions of "a," "b," or "c" above are met, assistance can be restored effective retroactively to the date that the client agreed to participate providing the client is otherwise eligible back to that date.

93.34(3) Any allowable expenses needed to permit the participant to remove the sanction, which are not precluded by other rules, shall be issued.

441—93.35(249C) Required client documentation. Documentation necessary to verify that the PROMISE JOBS participant is carrying out the terms of the employability plan shall be provided by the participant.

93.35(1) Written verification. The client can be required to provide written verification of family emergency, lack of transportation, or job search activities. It is the responsibility of the client to notify program staff or work site supervisors as soon as possible that a lack of transportation or family emergency has occurred and the expected duration.

93.35(2) Time and attendance. The participant's hours of attendance in work and training activities shall be verified monthly.

a. When the participant is in the work experience (WEP) component, the hours of participation shall be verified monthly by the work site, within ten calendar days following the end of each month.

b. Rescinded IAB 3/3/93, effective 5/1/93.

c. When work and training services are provided by training institutions, organizations, agencies, or persons outside of the PROMISE JOBS program, unless some other method is agreed to by the provider and PROMISE JOBS staff, the participant's hours of attendance shall be verified on the PROMISE JOBS Time and Attendance Report, Form 470-2617, which shall be signed and dated by the training provider. When a training provider refuses or fails to verify the hours of attendance, a signed and dated statement from the participant on Form 470-2617 shall be accepted in lieu of a signed statement from the training provider. The form shall be returned by the training provider or client within ten calendar days following the end of each month. In those instances when a training provider refuses or fails to return a completed, signed and dated PROMISE JOBS Time and Attendance Report, Form 470-2617, and it is necessary to request that the form be completed by the participant instead, the participant shall be allowed five working days to provide the form, even if the fifth working day falls on or after the tenth calendar day following the end of the month.

d. In those instances where the participant is involved in an activity, other than job search, which is not directly monitored by the PROMISE JOBS worker or an outside training provider, the participant shall record the hours of participation on the PROMISE JOBS Time and Attendance Report, Form 470-2617, and shall sign and date the form. The PROMISE JOBS worker shall review the form. The participant's hours shall be accepted unless the PROMISE JOBS worker has justifiable cause to doubt the accuracy of the hours. If the PROMISE JOBS worker accepts the hours, the PROMISE JOBS worker shall also sign and date the form. The form shall be returned within ten calendar days following the end of each month. If the hours

reported are questioned, the PROMISE JOBS worker shall meet with the participant to resolve the discrepancy. The participant shall provide further verification, if required.

e. When a participant is involved in postsecondary classroom training, or when a mandatory participant is voluntarily involved in high school completion activities, failure to verify hours of attendance as described above shall result in termination of the training plan, and a nonfinancial sanction for a voluntary participant. When a participant involved in another PROMISE JOBS component fails to verify the participant's hours of attendance, the participant shall be subject to a sanction of loss of priority service if a volunteer participant, or a FIP financial sanction if a mandatory participant.

93.35(3) Job search documentation. Documentation of any job search activities which cannot be documented by the PROMISE JOBS worker shall be provided by the participant using Form 470-3099, Job Search Record. The Job Search Record shall include the name and address of the employer, the name and telephone number of the contact person, the date on which contact was made, and the outcome of the contact. It shall also contain authorization for PROMISE JOBS staff to telephone any listed employer to verify the contact.

The Job Search Record shall be provided within five working days after the last working day of any week during which the participant has chosen to make the employer contacts.

441—93.36(249C) Duration of probationary periods. Persons who are required to participate in orientation or assessment and who are placed on probation shall remain in probationary status until orientation or assessment is completed. Job club participants who are placed on probation shall remain in a probationary status for the duration of job club participation. Participants who are aged 16 or 17 and who are required to participate in high school completion activities shall be placed on probation for 30 days. All other participants who are placed on probation shall remain in a probationary status for 60 days. A second offense, without good cause, while a participant is on probation shall be considered failure to participate and sanctions shall be imposed.

441—93.37(249C) Written notification. Clients shall be notified in writing of all scheduled meetings, component assignments, work site assignments, and probationary periods. Written notice to the participant shall also be provided when a physical examination, doctor's statement, or other verification is required. Participants shall be allowed 45 calendar days from the date notice is mailed to provide a physical examination report. Five working days shall be allowed from the date notice is mailed for a participant to appear for scheduled meetings, component or work site assignments, provide a doctor's statement, or provide other verification. Additional time shall be allowed when it is verified that a participant is making every effort but is unable to fulfill requirements within the established time frames.

441—93.38(249C) Informal resolution of disputes. When there is disagreement between the client and the immediate PROMISE JOBS worker regarding the client's participation in PROMISE JOBS components, the client can request to talk to the supervisor and request a decision on the dispute. The supervisor shall schedule a face-to-face interview with the participant within seven days and issue a decision in writing within 14 days of the participant's request.

441—93.39(249C) Notice of decision. PROMISE JOBS will send written notice to each client in accordance with 441—Chapter 7 when:

1. Services are approved, rejected, renewed, changed, canceled, or terminated for failure to cooperate or participate. PROMISE JOBS services are considered to be approved at that point in time when the client is assigned to begin participation in the assessment component or when assessment has been waived and the participant is assigned to another PROMISE JOBS component.

2. An expense allowance is offset or the offset amount is changed due to action to recover an overpayment.

441—93.40(249C) Right of appeal. Each applicant and recipient is entitled to appeal and be granted a hearing over disputes regarding services being received or services which have been requested and denied, reduced, canceled, or inadequately provided, and acts of discrimination on the basis of race, sex, national origin, religion, age or handicapping condition according to 441—Chapter 7.

93.40(1) Right to appeal alleged violation of PROMISE JOBS program policy. Participants shall have the right to file a written appeal concerning any alleged violation of PROMISE JOBS program policy as set forth in these administrative rules which is imposed as a condition of participation. The responsible agency (employment services department or Job Training Partnership Act program) shall provide the participant with written documentation which specifies the participation requirement in dispute.

93.40(2) Rescinded IAB 3/3/93, effective 5/1/93.

93.40(3) A participant who is enrolled in the PROMISE JOBS program may request a hearing if dissatisfied with working conditions, the availability of workers' compensation coverage or the wage rate used in determining hours of community work experience program participation. When any involved party is dissatisfied with the decision on the appeal, the dissatisfied party shall be informed of the right and, if so desired, assisted with appealing the issue to the Secretary of Labor, at Office of Administrative Law Judges, U.S. Department of Labor, Vanguard Building, Room 600, 111 20th Street N.W., Washington, DC 20036, within 20 days of receipt of the department's final decision. For the purposes of this rule, the department's final decision shall be considered received the second day after the date that the written decision was mailed, unless the intended recipient can demonstrate that it was not received on the second day after the mailing date. When the second day falls on a Sunday or legal holiday, the time shall be extended to the next mail delivery day. The option to appeal to the Secretary of Labor does not preclude an individual from exercising any right to judicial review provided in Iowa Code chapter 17A or as described in 441—Chapter 7.

441—93.41(249C) Participant recycling, deactivation, and waiving participation.

93.41(1) Waiving participation. Participation in the PROMISE JOBS program shall be temporarily waived in the circumstances listed in "a," "b," "c," "d," and "e" below. When participation is waived, the PROMISE JOBS worker shall periodically review the participant's situation to ensure that progress toward self-sufficiency is being made.

a. The participant is employed 86 or more hours a month. The participant may choose to participate but is not required to do so. For self-employed persons, hours shall be determined by dividing the average net monthly income from self-employment by the state or federal minimum wage, whichever is greater. "Net monthly income" means income remaining after deduction of allowable business expenses as described in subrule 41.7(2), paragraphs "k," "l," "m," "n," and "o."

b. The participant is involved in an educational or training activity which, although it is not considered approvable training for PROMISE JOBS, can reasonably be expected to result in self-sufficiency such as, but not limited to, part-time training.

c. The PROMISE JOBS worker determines that good cause should be granted on a long-term basis; for example, lack of child care or transportation, family emergency, and so on.

d. The participant is working full-time toward a graduate degree except when the undergraduate degree was earned while participating in PROMISE JOBS.

e. When the participant is entitled to have participation in other components waived in accordance with 93.14(14) "g."

93.41(2) Deactivation.

a. The PROMISE JOBS worker may deactivate a participant when the PROMISE JOBS worker determines that the participant or the participant's family is dysfunctional to the extent that the participant cannot be expected to meaningfully participate in the program. The

action to deactivate may be made upon the recommendation of the local human services income maintenance unit in accordance with 441—41.4(7)“a”(7).

b. A participant, other than a designated parent on a FIP-UP case, who has participated in three significant job search activities without finding employment may be deactivated following completion of the third job search activity.

c. Except for designated parents on FIP-UP cases, staff is authorized to deactivate participants when they determine that additional PROMISE JOBS services are not required, are not available, or are not suitable to the needs of the participant.

93.41(3) Interagency referral process. PROMISE JOBS provider agencies in each local service delivery area shall coordinate development of the employability plan and arrange referrals between agencies so that there is agreement on the services described in the employability plan; the services are arranged and available in a timely fashion, consistent with rule 441—93.5(249C) and other applicable rules; and the participant's changing circumstances are recognized, assessed when PROMISE JOBS staff and the participant agree that additional assessment is needed, and incorporated into the employability plan when necessary.

441—93.42(249C) Eligibility-termination. Eligibility for PROMISE JOBS terminates when the participant is no longer included in the eligible group.

441—93.43(249C) Confidentiality. The departments of education, employment services and economic development, Job Training Partnership Act agencies, and local education agencies shall safeguard client information in conformance with Iowa Code section 217.30.

The department and PROMISE JOBS provider agencies may disclose client information to other state agencies, or to any other entity or person who is not subject to the Iowa Administrative Procedure Act, when that agency or other entity or person must have that information in order to provide services to PROMISE JOBS participants which have been determined to be necessary for successful participation in PROMISE JOBS.

441—93.44(249C) PROMISE JOBS grievance procedure. The PROMISE JOBS program shall provide a grievance procedure to address and resolve public complaints regarding the displacement of regular workers with program participants.

93.44(1) The procedure will provide that:

a. Complaints must be filed in writing and received by the PROMISE JOBS contractee within one year of the alleged violation.

b. A representative of the PROMISE JOBS contractee must schedule a face-to-face interview with the complainant within seven days of the date the complaint is filed, to provide the opportunity for informal resolution of the complaint.

c. Written notice of the location, date and time of the face-to-face interview must be provided.

d. An opportunity must be provided to present evidence at the face-to-face interview.

e. The representative of the PROMISE JOBS contractee shall issue a decision in writing within 14 days of the date a complaint is filed.

f. A written explanation must be provided to all involved parties of the right to file a written appeal, according to 441—Chapter 7, if the opportunity for informal resolution is declined, if a party receives an adverse decision from the PROMISE JOBS contractee, or if there is no decision within the 14-day period.

(1) To be considered, an appeal must be filed with the department within ten days of the mailing date of the adverse decision or ten days from the date on which a decision should have been mailed.

(2) An appeal hearing will not be granted until informal resolution procedures have been exhausted, unless a decision has not been issued within 24 days of the complaint filing date.

93.44(2) The department shall issue a final decision within 90 days of the date the complaint was filed with the PROMISE JOBS contractee.

a. The period of time available to complete the offsetting will be limited according to the amount of the overpayment. For amounts up to \$500, three months is the maximum period; for amounts over \$500 and up to \$1,000, six months is the maximum period. Offsetting shall not be initiated for overpayments which do not meet these limits.

b. When it becomes impossible to recover through offsetting, because the client is no longer participating in PROMISE JOBS, or because the overpayment amount exceeds the limits described in paragraph "a" above or because the provider will deny service to the client if offsetting is initiated, the PROMISE JOBS worker shall notify the DIA so that repayment procedures can be initiated.

c. If the provider does not agree that an overpayment has occurred or will deny service to the client if offsetting is initiated, the PROMISE JOBS worker shall not initiate offsetting. The worker shall explain that DIA will contact the provider regarding recovery procedures and shall explain appeal rights as found in 441—Chapter 7.

93.51(5) When a client or a provider has been referred to DIA to initiate recovery, DIA shall use the same methods of recovery as are used for the FIP program, described at DIA rules 481—71.1(10A) to 71.9(10A), except that the FIP grant shall not be reduced to effect recovery without the client's written permission.

a. When the client requests grant reduction on the Agreement to Repay, Form PA-3164-0, grant reduction will be made as described in subrule 46.5(3), paragraphs "a," "b," and "c," based on definitions of client error and agency error in rule 441—46.1(239).

b. With regard to provider overpayments, DIA is authorized to take any reasonable action to effect recovery such as, but not limited to: informal agreements, civil action, or criminal prosecution. However, DIA shall not take any action which would jeopardize the participant's continued participation in the PROMISE JOBS program.

441—93.52(249C) Disadvantaging the family by a change in child care method. In the case of a family which was receiving ADC from Iowa on October 13, 1988, based on application of child care through the provision of special needs, if the family would be disadvantaged as a result of meeting the cost of child care through PROMISE JOBS, the family's ADC eligibility and payment (including child care needs) shall be determined as if the method of provision which was applicable on October 31, 1988, is still in effect.

These rules are intended to implement Iowa Code sections 239.2 and 239.5 and chapter 249C and 1991 Iowa Acts, chapter 267, section 111, subsection 1.

441—93.53 to 93.100 Reserved.

DIVISION II
FAMILY INVESTMENT PROGRAM—TREATMENT GROUP
[Prior to 10/13/93, 441—93.1(249C) to 93.52(249C)]

PREAMBLE

This chapter implements the PROMISE JOBS* program which is designed to increase the availability of employment and training opportunities to family investment program (FIP) recipients. It implements the family investment agreement (FIA) as directed in legislation passed by the Seventy-fifth General Assembly and signed by the governor on May 4, 1993, and approved under federal waiver August 13, 1993. The program also implements the federal Job Opportunities and Basic Skills (JOBS) program of the Family Support Act of 1988.

The program assigns responsibility for the provision of services to the Iowa department of employment services (DES) and the department of economic development (DED) as the administrative entity for the Job Training Partnership Act (JTPA) program, Iowa's two primary

*See definition in 441—40.1(239)

providers of employment-oriented services. In addition, the bureau of refugee services (BRS) is assigned the responsibility of providing program services, to the extent compatible with resources available, to all refugees.

PROMISE JOBS services, which are also FIA options, include orientation, assessment, job-seeking skills training, group and individual job search, classroom training programs ranging from basic education to postsecondary education opportunities, work experience, unpaid community service, parenting skills training, monitored employment, and the FIP-unemployed parent work program, FaDSS, and other family development services. In addition, participants have access to all services offered by the provider agencies. Persons in other work and training programs outside of PROMISE JOBS or not approvable by PROMISE JOBS can use those as FIA options.

441—93.101(249C) Program area. The department of human services shall administer an employment and training program known as PROMISE JOBS. The PROMISE JOBS program shall include the family investment agreement (FIA). The program shall be available statewide. If the department determines that sufficient funds are not available to offer on-location services in each county, it shall prioritize the availability of services in those counties having the largest FIP populations.

441—93.102(249C) Agency responsibility for provision of each service. Rescinded IAB 12/8/93, effective 1/1/94.

441—93.103(249C) Contracts with provider agencies for provision of services. The department of human services shall contract with the departments of employment services and economic development to provide PROMISE JOBS and FIA services to FIP recipients. Services shall include orientation, assessment, job-seeking skills training, group and individual job search, job placement and job development, high school completion, adult basic education (ABE), general educational development (GED), and English as second language (ESL), vocational classroom training, postsecondary education, work experience, unpaid community service, parenting skills training, monitored employment, FaDSS, other family development services, and the FIP-UP work program.

The bureau of refugee services shall provide the above services, to the extent compatible with resources available, to persons who entered the United States with refugee status.

441—93.104(249C) Registration and referral requirements. An application for assistance constitutes a registration for the PROMISE JOBS program and the FIA for all members of the FIP case and all other persons responsible for the FIA as specified at 441—41.24(239) unless the county office determines a person is exempt as specified in 441—subrule 41.24(2).

All registrants may volunteer for services.

Applicants for FIP assistance may volunteer for and are eligible to receive job placement services prior to approval of the FIP application. Applicants who participate in the program shall receive a transportation allowance, as well as payment of child care, if required. The transportation allowance shall be paid at the start of participation. The income maintenance worker shall not refer an applicant to the program when it appears that the applicant will be ineligible for FIP.

A referral file of volunteers and persons who are not exempt from referral shall be provided to the appropriate PROMISE JOBS provider agencies.

Volunteers and persons who are responsible for the FIA shall contact the appropriate PROMISE JOBS office, to schedule an appointment for PROMISE JOBS orientation, within ten calendar days of notice that the FIP application is approved or that exempt status is lost and FIA responsibility has begun.

93.104(1) All registrants may volunteer for services.

93.104(2) Registrants are exempt from referral when they qualify for exemption as specified in subrule 41.24(1).

93.104(3) Applicants for FIP assistance may volunteer for and are eligible to receive job placement services prior to approval of the FIP application. Applicants who participate in the program shall receive a transportation allowance, as well as payment of child care, if required. The transportation allowance shall be paid at the start of participation. The income maintenance worker shall not refer an applicant to the program when it appears that the applicant will be ineligible for FIP.

93.104(4) Only clients applying for or receiving FIP assistance are eligible for PROMISE JOBS services.

441—93.105(249C) Priority of service.

93.105(1) Federal requirements. Federal law contains the following requirements in regard to JOBS target groups and the state's JOBS participation rates:

a. Federal law requires that at least 55 percent of all JOBS program funds be expended on the following target groups:

(1) Parents who are not yet aged 24 and who have not completed high school or have no work history during the past 12 calendar months.

(2) Persons in households where the youngest child will become ineligible for FIP cash assistance during the next 24-month period.

(3) Persons who have received FIP cash assistance for any 36 months during the most recent 60-month period.

(4) Parents under the age of 20 who have a child under the age of 3 but have not completed high school.

b. Federal law requires that a certain percentage of each state's mandatory participant population be actively participating in the JOBS program each year. The requirement begins at 7 percent in federal fiscal year 1991 and increases to 20 percent by federal fiscal year 1995. Because of criteria used to determine the participation rate for federal purposes, some PROMISE JOBS participants are excluded from the participation rate calculation, regardless of whether the participants are satisfactorily participating in the program.

c. Federal law requires that a certain percentage of FIP-unemployed parent (FIP-UP) cases meet certain participation requirements in order for the state IV-A agency to receive the maximum allowable federal matching rate. The requirement begins at 40 percent of the FIP-UP cases in federal fiscal year (FFY) 1994 and increases to 50 percent for FFY 1995, 60 percent for FFY 1996, and 75 percent for FFY 1997 and beyond.

93.105(2) Call-up. FIP participants who are referred to PROMISE JOBS after January 1, 1994, shall initiate call-up for PROMISE JOBS orientation by contacting the appropriate PROMISE JOBS office within ten calendar days of the mailing date of the notice of FIP approval or within ten calendar days of notice that exempt status has been lost and FIA responsibility has begun, as required under 441—subrule 41.24(5).

For FIP recipients who were referred to PROMISE JOBS prior to January 1, 1994, PROMISE JOBS provider agencies shall initiate the FIA process within six months unless an extension is granted by the department. The department is authorized to extend this time frame for up to six months if program funds are insufficient to convert the entire population to the FIA process during January through June, 1994.

PROMISE JOBS provider agencies shall schedule FIA orientation appointments at the earliest available times for FIP participants who contact the appropriate PROMISE JOBS office within the ten days except when the department exercises administrative authority to require the following prioritization of orientation services to ensure that parents aged 21 and under are promptly served, to encourage FIP participants in entrepreneurial efforts, to move FIP participants into the family development and self-sufficiency (FaDSS) program or to meet the federal participation requirements described at 93.105(1). The specific groups subject to prioritization are:

a. Teen parents aged 19 and under.

b. Young parents aged 20 and 21.

c. FIP recipients in other target groups as described at 93.105(1) who receive supportive services from the FaDSS program under 441—Chapter 165.

d. Parents on FIP-UP cases.

e. Participants in entrepreneurial training such as the self-employment investment demonstration project or Iowa's self-employed household incentive program as described at 441—Chapter 48.

f. FaDSS participants who are not in target groups.

The department reserves the authority to prioritize these groups in whatever order best fits the needs of the PROMISE JOBS program.

FIP participants who volunteer shall first be called up to receive priority service for orientation.

Participants who are participating in the food stamp employment and training (FSET) program at the time of call-up shall be allowed to use the FSET component in which they are currently enrolled as the first step in the FIA. This does not apply to persons who drop out of the FSET component.

93.105(3) *Waiting lists.* Because of state and federal budgetary limitations on the PROMISE JOBS program, persons who are not designated parents on FIP-UP cases who complete orientation and assessment shall be placed on a waiting list, when appropriate, for any further PROMISE JOBS services. Persons shall be removed from the waiting list and placed in additional components as funds and training slots become available. The department shall have the administrative authority to determine agency and geographical breakdowns or to designate specific PROMISE JOBS components or supportive service levels for a waiting list. Persons who are designated parents on FIP-UP cases shall not be placed on a waiting list provided sufficient funds are available to serve them.

a. In regard to the priority of participants to be removed from the waiting list, as described above, the department shall have the administrative authority to give first priority for removal from the waiting list to the teen parents aged 19 and under. In addition, priority for removal from the waiting list may also be given to parents aged 20 and 21. Subject to the constraints described in this paragraph, subparagraphs (1) to (4), the department shall make PROMISE JOBS services available to teen parents with an emphasis on high school completion. Priority for removal from the waiting list may also be given to parents on family investment program-unemployed parent (FIP-UP) cases. The decision as to whether teen parents or parents on FIP-UP cases shall receive priority service, and the services that will be made available to them, and the decision as to the availability of PROMISE JOBS services to other participants, regardless of target group status, shall be based on whether:

(1) Sufficient PROMISE JOBS funds are available.

(2) The state will meet the target group requirement described at 93.105(1)“a.”

(3) The state will meet the federal participation rate requirement described at 93.105(1)“b.”

(4) The state will meet the FIP-UP participation rate requirement described at 93.105(1)“c.”

b. The department shall also have the administrative authority to remove nontarget group members, job corps solo parent program participants, and SEID and ISHIP participants from the waiting list and make services available to them, subject to the restraints described at 93.105(3)“a”(1) to (3).

c. Persons who are participating in a component who are canceled from FIP are not eligible for PROMISE JOBS services while FIP is canceled. However, the person can regain immediate eligibility for PROMISE JOBS services and shall not be placed on a waiting list if the period of FIP ineligibility does not exceed four consecutive months and the participant is still satisfactorily participating in approvable training at the time that FIP eligibility is regained.

441—93.106(249C) Orientation for PROMISE JOBS and the FIA. Every FIP participant who schedules and keeps an orientation appointment as described at 93.105(2) shall receive orientation services.

93.106(1) Requirements of orientation. During orientation, each participant shall receive a full explanation of the advantages of employment under the family investment program (FIP), services available under PROMISE JOBS, a review of participant rights and responsibilities under the FIA and PROMISE JOBS, a review of the LBP as described at 441—subrule 41.24(8), an explanation of the benefits of cooperation with the child support recovery unit, and an explanation of the other programs available through PROMISE, specifically the cash bonus and transitional Medicaid and child care assistance programs.

a. Each participant shall sign Form WI-3305, Your Rights and Responsibilities, acknowledging that information described above has been provided.

b. Participants are required to complete a current employment services registration, Form 60-0330, Application for Job Placement and/or Job Insurance, when requested by PROMISE JOBS staff.

c. Orientation may also include completing self-assessment instruments.

d. The PROMISE JOBS worker shall meet with each participant, or family if appropriate when two parents or children who are mandatory PROMISE JOBS participants are involved, to determine readiness to participate, establish expenses and a payment schedule and to discuss child care needs.

93.106(2) Beginning PROMISE JOBS participation. An individual becomes a PROMISE JOBS participant when that person attends the first day of the assessment component, as described at rule 441—93.111(249C), or provides the substitute assessment information as described at 93.111(1)“a”(4).

441—93.107(249C) Medical examinations. A person shall secure and provide written documentation signed by a licensed health practitioner, licensed in Iowa or adjoining states, to verify a claimed illness or disability within 45 days of a written request by staff.

441—93.108(249C) Self-initiated training. Registrants who have attended one or more days of training prior to participating in a PROMISE JOBS orientation are considered to be self-initiated. For registrants who at time of call-up for PROMISE JOBS orientation are in self-initiated classroom training, including government-sponsored training programs, PROMISE JOBS staff shall determine whether the training program meets acceptable criteria as prescribed for the classroom training component at rule 441—93.114(249C).

93.108(1) Nonapprovable training. When it is determined that the self-initiated training does not meet the criteria of rule 441—93.114(249C), the registrant has the option to participate in other PROMISE JOBS options or to use the nonapprovable training to meet the obligations of the FIA, under the other education and training component, as long as the training can still be reasonably expected to result in self-sufficiency. PROMISE JOBS expense allowances are not available for persons in nonapprovable training.

93.108(2) Approvable training. When a self-initiated training program meets PROMISE JOBS program standards, including SEID and ISHIP as described at 441—subrule 48.3(4), the participant shall be enrolled in the classroom training component in order to be eligible for child care and transportation assistance. Eligibility for payment of transportation and child care allowances shall begin for that month in which the training plan is approved or the participant is removed from a waiting list as described at 93.105(3), whichever is later. Self-initiated participants are not eligible for expense allowances to pay for tuition, fees, books, or supplies.

441—93.109(249C) The family investment agreement (FIA). Families and individuals eligible for FIP shall, through any persons referred to PROMISE JOBS, enter into and carry out the activities of the FIA. Those who choose not to enter into the FIA or who choose not to continue its activities after signing the FIA shall enter into the limited benefit plan (LBP) as described at 441—subrule 41.24(8).

93.109(1) FIA-responsible persons.

a. All parents who are not exempt from PROMISE JOBS shall be responsible for signing and carrying out the activities of the FIA.

b. In addition, any other adults whose needs are included in the FIP grant shall be responsible for the FIA.

c. Persons who volunteer for PROMISE JOBS shall be responsible for the FIA as appropriate to their status as a parent or child on the case.

d. When the FIP eligible group holds a minor parent living with a parent who receives FIP, as described at 441—41.28(2)“b”(2), and both are referred to PROMISE JOBS, each parent is responsible for a separate FIA.

e. When the FIP eligible group holds a parent or parents and a child or children who are all mandatory PROMISE JOBS participants, each parent and each child would not have a separate FIA. All would be asked to sign one FIA with the family and to carry out the activities of that FIA. Copies of the FIA would be placed in individual case files.

f. When the FIP eligible group holds a parent or parents who are exempt and a child or children who are mandatory PROMISE JOBS participants, each child is responsible for completing a separate FIA.

93.109(2) FIA requirements. The FIA shall be developed during the orientation and assessment process through discussion between the FIP participants and PROMISE JOBS staff of coordinating PROMISE JOBS provider agencies, using Form 470-3095, Family Investment Agreement, and Form 470-3096, FIA Steps to Achieve Self-Sufficiency.

a. The FIA shall require the FIA-responsible persons and family members who are referred to PROMISE JOBS to choose participation in one or more activities which are described below. The level of participation in one or more of the options shall be equivalent to the level of commitment required for full-time employment or shall be significant so as to move toward that level.

(1) The options of the FIA shall include, but are not limited to, all of the following: orientation, assessment, self-directed job search, job-seeking skills training, group and individual job search, the FIP-UP work program, high school completion activities, GED, ABE, ESL, postsecondary classroom training, work experience, unpaid community service, parenting skills training, monitored part-time or full-time employment, and participation in FaDSS or other family development programs.

(2) In addition, participants have access to all services offered by the provider agencies. Persons in work and training programs funded outside of PROMISE JOBS or not approvable by PROMISE JOBS can use those as FIA options, except for work toward a graduate degree when the undergraduate degree was earned under PROMISE JOBS.

(3) It is expected that employment shall be the principal activity of the FIA or shall be combined with other FIA options whenever it is possible for the participant to do so as part of the plan to achieve self-sufficiency.

(4) Participants who are placed on a waiting list, as described at 93.105(3), for a PROMISE JOBS component or supportive service shall include employment in the FIA unless family circumstances indicate that employment is not appropriate.

b. The FIA shall reflect, to the maximum extent possible, the goals of the family, subject to program rules, funding, the capability, experience and aptitudes of family members, and the potential market for the job skills currently possessed or to be developed.

(1) The FIA shall include the long-term goals of the family for achieving self-sufficiency and shall establish a time frame, with a specific ending date, during which the FIA family expects to become self-sufficient, after which FIP benefits will be terminated.

(2) The FIA shall outline the expectations of the PROMISE JOBS program and of the family, clearly establishing interim goals necessary to reach the long-term goals and self-sufficiency.

1. It shall identify barriers to participation so that the FIA may include a plan, appropriate referrals, and supportive services necessary to eliminate the barriers.

2. It shall stipulate specific services to be provided by the PROMISE JOBS program, including the FIP-UP work program for designated parents on FIP-UP cases, child care, transportation, family development services, and other supportive services.

c. The FIA may incorporate a self-sufficiency plan which the family has developed with another agency or person, such as, but not limited to, Head Start, public housing authorities, child welfare workers, and FaDSS grantees, so long as that self-sufficiency plan meets the requirements of these rules and is deemed by PROMISE JOBS staff to be appropriate to the family circumstances. Participants shall authorize PROMISE JOBS to obtain the self-sufficiency plan and to arrange coordination with the manager of the self-sufficiency plan by signing Form MH-2201-0, Consent to Release or Obtain Information.

d. The FIA shall contain a provision for extension of the time frames and amendment of the FIA if funding for PROMISE JOBS components included in the FIA or required supportive services is not available.

e. The FIA shall be signed by the FIA-responsible person or persons and other family members who are referred to PROMISE JOBS, the PROMISE JOBS worker, and the project supervisor, before the FIA is considered to be completed.

f. If the FIA-responsible person demonstrates effort and is carrying out the steps of the FIA but is unable to achieve self-sufficiency within the time frame specified in the FIA, the FIA shall be renegotiated, the time frame shall be extended and the FIA shall be amended to describe the new plan for self-sufficiency.

g. Participants who choose not to cooperate in the renegotiation process shall be considered to have chosen the LBP.

441—93.110(249C) Arranging for services. Staff is responsible for providing or helping the participant to arrange for employment-oriented services, as required, to facilitate the registrants' successful participation, including client assessment or case management, employment education, transportation, child care, referral for medical examination, and supportive services under the family development and self-sufficiency program described in 441—Chapter 165 or other family development programs. PROMISE JOBS funds shall be used to pay costs of obtaining a birth certificate when the birth certificate is needed in order for the registrant to complete the employment service registration process described in rule 441—93.106(249C). PROMISE JOBS funds may also be used to pay expenses for clients enrolled in JTPA-funded components when those expenses are allowable under these rules. Clients shall submit Form PA-8121-5, Estimate of Cost, to initiate allowances or change the amount of payment.

93.110(1) Payment for child care. Payment for child care, if required for participation in any PROMISE JOBS component other than orientation or employment, not specifically prohibited elsewhere in these rules, and not available from any other source, shall be provided for participants after service has been received. Payment shall be made monthly unless the child care provider requires more frequent payment. Payment shall be authorized directly to the child care provider unless circumstances indicate that payment should be issued to the participant. These circumstances include reimbursement for the participant who documents payment for child care with personal funds and other circumstances as deemed appropriate and documented by the staff authorizing the payment. Persons employed shall be entitled to the child care deduction described at 441—41.27(2)“b” and “d.”

a. Rate of payment shall be based on the 75th percentile cost of comparable types of child care in the local area.

b. Local market rates shall be determined based on representative samples of child care costs for all political subdivisions or for alternate areas which represent reasonable child care markets based upon their geographic proximity or common characteristics. Local market rates shall be determined using the following considerations:

(1) Separate market rates shall be determined for center care, group family care, family day care, and in-home care.

(2) Local market rates shall differentiate among care for children with special needs, infants, toddlers, preschool and school-age children, where applicable.

(3) Local market rates shall differentiate between full-time and part-time care, if applicable.

(4) Local market rates shall consider reductions in the cost of care for additional children in the same family.

c. Where there are only one or two providers of a type of care in a local market area, the rate of payment may be set at the 100th percentile cost.

d. If state-only funding is made available, the rate of payment may exceed the 75th percentile of costs but shall not exceed the going rate in the community.

93.110(2) PROMISE JOBS will pay a provider no more than the rate the provider charges a private individual. PROMISE JOBS funds shall be used to pay mandatory child care fees when required by a child care facility, including payment for periods of absence, not to exceed 30 days, required by the provider to maintain the child care slot.

93.110(3) In two-parent households, PROMISE JOBS is authorized to pay child care if it can be documented that the other parent is unable to provide care or the other parent is employed, in school, or participating in an employment and training program during the hours that care is needed.

93.110(4) Child care shall not be paid to a biological, step, or adoptive parent. Child care shall not be paid to other family members who are included in the same eligible group.

93.110(5) Payment shall be made for a child in the eligible group or who would be in the eligible group except for the receipt of Supplemental Security Income. Payment shall also be made for a child living in the home whose needs are met by IV-E foster care. Payment is limited to children who are either under the age of 13 or aged 13 and over who are physically or mentally incapable of self-care, when established in accordance with 441—subrule 41.21(5)“c,” or under court supervision.

93.110(6) Transportation allowances. Participants may receive a transportation allowance for each day of participation, if transportation is required for participation in a PROMISE JOBS activity, but shall not receive a transportation allowance for orientation or for assessment activities which occur on the same day as orientation or for employment. The transportation allowance shall be paid monthly at the start of each month of participation or when participation begins, whichever is earlier. Persons employed shall be entitled to the work expense deduction described at 441—41.27(2)“a” and “d.”

Transportation allowances shall be developed individually according to the circumstances of each participant. Allowances shall cover transportation for the participant and child, if necessary, from the participant's home to the child care provider, if necessary, and to the PROMISE JOBS site or activity.

a. For those who use public transportation, the allowance shall be based on the normally scheduled days of participation in the PROMISE JOBS activity for the period covered by the payment, using the rate schedules of the local transit authority to the greatest advantage, including use of weekly and monthly passes or other rate reduction opportunities.

b. For participants who use a motor vehicle they operate themselves or who hire private transportation, the transportation allowance shall be based on a formula which uses the normally scheduled days of participation in the PROMISE JOBS activity for the period covered

by the allowance times the participant's anticipated daily round trip miles times the mileage rate of \$.16 per mile.

c. Transportation allowances for the assessment component shall be issued in advance in weekly increments as described in 93.110(6) "a" or 93.110(6) "b," with payments for the second or third week of assessment being issued as soon as it is determined that the participant will be required to participate in the second or third week of the component.

d. Monthly transportation allowances for each full calendar month of participation shall be issued in advance in the amount determined by the formula described in 93.110(6) "a" or 93.110(6) "b."

(1) Allowances for the third and subsequent months of an ongoing activity shall not be authorized prior to receipt of time and attendance verification, as described at subrule 93.135(2), for the month previous to the issuance month. (For example, a transportation allowance for December, normally issued after November 15 to be available to the participant by December 1, will not be authorized until time and attendance verification for the month of October has been received in the PROMISE JOBS office.)

(2) The amounts of allowances for the third and subsequent months of an ongoing activity shall be adjusted by subtracting from normally scheduled days any number of days which represent a difference between the number of normally scheduled days in the month previous to the issuance month and the number of actual days attended in the month previous to the issuance month. (For example, a transportation allowance based on 16 normally scheduled days of participation is authorized for October, issued in September. If ten days of participation are normally scheduled in December, and the participant did not attend two days of the PROMISE JOBS activity in October, the December transportation allowance, issued in November for December, shall be calculated using eight days.) Because this adjustment is not possible in the last two months of an ongoing activity, transportation allowances for the last two months of an ongoing activity shall be subject to transportation overpayment provisions of 93.110(8) "b."

e. Persons who require, due to a mental or physical disability, a mode of transportation other than a vehicle they operate themselves shall be eligible for payment of a supplemental transportation allowance when documented actual transportation costs are greater than transportation allowances provided under these rules and transportation is not available from a nonreimbursable source. Costs of transportation by a public or private agency shall be allowed for the actual costs. Costs of transportation provided by private automobile shall be allowed for the actual charge up to a maximum of the rate per mile as described in 93.110(6) "b."

(1) Medical evidence of disability or incapacity may be obtained from either an independent physician or psychologist or the state rehabilitation agency in the same manner specified in 441—41.21(5) "c."

(2) The client's need for a mode of transportation other than a vehicle operated by the client due to disability or incapacity shall be verified by either an independent physician or psychologist or the state rehabilitation agency.

f. In those instances where a PROMISE JOBS participant is enrolled in high school, a transportation allowance shall not be allowed if transportation is available from a nonreimbursable source such as when transportation is provided by the school district, or the school district has deemed it unnecessary due to the proximity of the participant's home to the school. If child care needs make it impossible for the participant to use transportation provided by the school district, a transportation allowance shall be authorized.

93.110(7) Expense allowances during a month of FIP suspension. Payment for expenses shall be made for a month of FIP suspension if the client chooses to participate during that month in a PROMISE JOBS component or other FIA activity for which expense allowance payment is allowable under these rules and to which the client has been previously assigned.

establishment of a limited benefit plan

Ch 93, p.42

Human Services[441]

IAC 3/2/94

93.110(8) Transportation overpayment. Payment for transportation shall be considered an overpayment subject to recovery in accordance with rule 441—93.151(249C) in the following instances:

a. When the participant attends none of the scheduled days of participation in a PROMISE JOBS activity, the entire transportation allowance shall be considered an overpayment. Recovery of the overpayment shall be initiated when it becomes clear that subsequent participation in the activity is not possible for reasons such as, but not limited to, family investment program ineligibility, or exemption from PROMISE JOBS participation requirements.

b. When the participant fails to attend 75 percent of the normally scheduled days of participation in either of the last two months of an ongoing PROMISE JOBS activity or in any transportation allowance period of an activity which has not ~~been~~ used for allowance adjustment as described at 93.110(6)“d,” an overpayment is considered to have occurred. The amount to recover shall be the difference between the amount for the actual number of days attended and the amount for 75 percent of normally scheduled days. However, a transportation allowance overpayment does not occur for any month in which the participant leaves the PROMISE JOBS activity in order to enter employment.

441—93.111(249C) Assessment and assignment to other activities and components. PROMISE JOBS components and FIA options include assessment, job-seeking skills training, job search activities, monitored employment, basic education services, work experience, unpaid community service, parenting skills training, postsecondary classroom training, FaDSS and other family development services, and the FIP-UP work program.

93.111(1) Assessment. The purpose of assessment is to provide for a thorough self-evaluation by the FIP participant or family and to provide a basis for PROMISE JOBS staff to determine employability potential and to determine the services that will be needed to achieve self-sufficiency through PROMISE JOBS and the FIA. Assessment shall be conducted so as to ensure that participants can make well-informed choices and PROMISE JOBS workers can provide appropriate guidance as they complete the FIA to achieve the earliest possible self-sufficiency for the FIP family. Assessment services shall be provided through coordination among PROMISE JOBS provider agencies.

Assessment services shall be delivered through options known as assessment I, assessment II, and assessment III. These options may be provided as separate services, delivered at appropriate times during the duration of the FIA, or may be delivered as a continuous service up to the level necessary to provide the assessment needed for participant and PROMISE JOBS worker decisions while completing the FIA.

a. Assessment I shall be provided for all FIP participants. PROMISE JOBS staff shall meet individually with FIP recipients who are referred to PROMISE JOBS and who choose to develop the FIA. This assessment meeting, at a minimum, shall assess the family's financial situation, family profile and goals, employment background, educational background, housing needs, child care needs, transportation needs, health care needs, and other barriers which may require referral to entities other than PROMISE JOBS for services.

(1) Assessment I may be the level of assessment appropriate for persons for whom: a part-time job has the potential to become full-time; there is an expectation of securing immediate employment; there are obvious literacy or other basic education barriers; family responsibilities limit the time that can be dedicated toward achieving self-sufficiency; there are transportation barriers; or there are multiple barriers which indicate that FaDSS, other family development services, or other social services are appropriate before other significant steps can be taken toward self-sufficiency.

(2) Persons in these circumstances may, based on the results of assessment I, complete the FIA to participate in activities such as, but not limited to, monitored part-time or full-time employment, job search, unpaid community service, parenting skills training, FaDSS or other

corrected
IAC 4/24/96

family development services, other social services, or basic or remedial education, perhaps in conjunction with other services.

(3) The services of assessment I shall be provided in one individual session unless the PROMISE JOBS worker documents a need for additional time.

(4) Participants shall have the option of substituting for assessment I assessment information which they have completed with another agency or person such as, but not limited to, JTPA, Head Start, public housing authorities, child welfare workers, and family development services. Participants shall authorize PROMISE JOBS to obtain these assessment results by signing Form MH-2201-0, Consent to Release or Obtain Information. To be used in place of assessment I, the assessment results must contain all or nearly all of the items from paragraph "a" above and must have been completed within the past 12 months.

(5) Participants shall have the option to supplement assessment I with information in the manner as described in subparagraph (4) above and to establish communication between PROMISE JOBS staff and other agencies or persons in order to ensure that the family investment agreement activities do not conflict with any case plans which have already been established for the family. Authorizing this communication is not mandatory under the FIA but PROMISE JOBS staff shall have the authority to ask for verification of activities planned under another case plan when the participant reports conflicts.

b. Assessment II services shall be provided for those who, during assessment I, have no barriers to limit participation, have no specific career goal or plan, and need further assessment services to complete the FIA; and for those who are ready to advance to other components after completing a PROMISE JOBS activity or other services which were determined after assessment I and are part of the FIA.

(1) The services of assessment II may include, but are not limited to, literacy and aptitude testing, educational level and basic skills assessment, self-esteem building, interest assessment, exposure to nontraditional jobs, exposure to job-retention skills, goal setting, motivational exercises, exposure to job-seeking skills, and exposure to role models.

(2) Persons who complete assessment II may complete the FIA to participate in FIA activities such as, but not limited to, job club or other job search activities, work experience placement, or referral for entrepreneurial training.

(3) Assessment III services shall be provided for those who, during assessment I or II, request postsecondary classroom training as part of the FIA; or those whose previous participation indicates a need for and a likelihood of success in postsecondary classroom training.

c. Services of assessment III shall provide occupational specific assessment or guidance before completing the FIA for postsecondary classroom training. These services may be provided by PROMISE JOBS staff or other entities as arranged locally.

It is expected that assessment II and assessment III activities shall be provided in a maximum of 20 hours per week for each option unless the PROMISE JOBS worker documents a need for additional time.

d. FIP participants who previously participated in assessment options and then were canceled from FIP or entered an LBP may be required to participate in any assessment option again when the PROMISE JOBS worker determines that updated assessment is needed for development or amendment of the FIA.

e. Family development and self-sufficiency (FaDSS) program participants attend orientation but are not referred to assessment until the FaDSS grantee approves the assignment of the FaDSS participant to other PROMISE JOBS activities. FaDSS participants who have completed assessment in the past may be required to complete assessment again when the FaDSS grantee approves assignment to other PROMISE JOBS activities if the PROMISE JOBS worker believes that extended assessment is necessary to reassess the participant's abilities and circumstances.

f. Except for assessment activities which occur on the same day as orientation, persons participating in assessment options are eligible for allowances for transportation and child care

needed to allow the scheduled participation. Persons who miss any portion of scheduled assessment services may be required to make up the missed portion of the sessions, based on worker judgment and participant needs. When make-up sessions are required, the participant shall not receive an additional transportation allowance, but necessary child care shall be paid.

g. A participant who has completed assessment I and who wishes to include postsecondary classroom training in the FIA shall be required to participate in assessment II and assessment III unless the participant is not required to do so because:

(1) The person had been accepted for training by either SEID or an ISHIP training provider.

(2) The person is already involved in approvable self-initiated training at the time of PROMISE JOBS orientation.

(3) Participation in assessment II and assessment III would interfere with training initiated by the participant after orientation and the training is approvable under PROMISE JOBS. Participants who initiate training after orientation are not considered self-initiated but are otherwise treated in accordance with rule 441—93.108(249C) or in accordance with 93.111(2).

93.111(2) Assessment-related restrictions on expense allowance assistance for self-initiated training. When persons described at 93.111(1) 'g'(2) and (3) are still within the first quarter or semester of involvement with the training program that they have chosen, expense allowance assistance through PROMISE JOBS cannot be approved, even if the training is otherwise approvable, until the persons have completed the assessment II and assessment III options or have successfully completed the first quarter or semester of the training program in accordance with the requirements of the educational institution being attended. Persons involved in training programs where quarters or semesters are not used must successfully complete four months of the training program before assistance can begin, except for SEID and ISHIP participants who are exempt from the limitations of this paragraph. Otherwise, assistance shall only be approved effective with the second quarter or semester, or with the fifth month of participation in the training program, as applicable to the client's situation.

93.111(3) Requirements for parents who have not completed high school. Assessment and development of FIA options shall follow these guidelines for parents under the age of 20.

a. Parents under the age of 16 who have not completed high school shall be expected to use enrollment or continued attendance in high school completion as a first step in the FIA.

b. Parents aged 16 or 17 who have not completed high school shall be expected to use enrollment or continued attendance in high school completion or the GED program as a first step in the FIA. Participants deemed incapable of participating in these activities by the local education agency shall choose other FIA options.

c. Parents who are aged 18 or 19 who have not completed high school shall be expected to use enrollment or continued attendance in high school completion or the GED program as a first step in the FIA if assessment indicates the participants are capable of completing regular high school, alternate high school, or GED. Participants deemed incapable of participating in these activities shall choose other FIA options.

93.111(4) Participation after completion of appropriate assessment. After completion of the appropriate assessment level, participants shall be referred for the PROMISE JOBS component services or supportive services which are designated in the completed FIA.

93.111(5) Retention of a training slot. Once a person has been assigned a PROMISE JOBS training slot, that person retains that training slot until FIP eligibility is lost for more than four consecutive months, an LBP chosen after completing an FIA is in effect, or the person becomes exempt from PROMISE JOBS and the person does not choose to volunteer to continue to participate in the program.

441—93.112(249C) Job search options. Employment is an emphasis of the FIA as described at rule 441—93.109(249C) and PROMISE JOBS participants shall have several options to search for work: job club, individual job search, and self-directed job search. The participant and the PROMISE JOBS workers shall incorporate into the self-sufficiency plan the job search

option which is appropriate for the previous work history, skill level, and life circumstances of the participant. Job search contacts shall be documented by PROMISE JOBS staff or by participants, as appropriate. Participant documentation shall be provided as described at 93.135(3). For job search planning and reporting purposes, each in-person job search contact documented by the participant shall be considered to require one hour of participation.

93.112(1) Job club. Job club consists of one week of job-seeking skills training and two weeks of group job search. It is expected that job clubs will be designed to require at least 20 hours a week of participation in each week. However, less than 20 hours a week may be scheduled based on local office need and resources. Participants who choose job club shall receive a child care allowance, if required, and an allowance as described at 93.110(6) to cover costs of transportation, if required. The transportation allowance shall be paid in full at the start of participation.

Job-seeking skills training includes, but is not limited to: self-esteem building, goal attainment planning, resumé development, grooming, letters of application and follow-up letters, job application completion, job-retention skills, motivational exercises, identifying and eliminating employment barriers, positive impressions and self-marketing, finding job leads, obtaining interviews, use of telephones, interviewing skills development and practice interviewing.

a. All participants who choose the job club option shall receive one week of job-seeking skills training. Daily attendance during the one week of job-seeking skills training is necessary. Participants who miss any portion of the job-seeking skills training shall repeat the entire week of training.

(1) Participants who must repeat the job-seeking skills training because of absence due to reasons as described at rule 441—93.133(249C) shall receive an additional transportation allowance as described at 93.110(6) and required child care payment shall be made.

(2) Participants who must repeat job-seeking skills training for absence due to reasons other than those described at rule 441—93.133(249C) shall not receive an additional transportation allowance. Required child care payment shall be allowed.

b. Participants shall then take part in a structured employment search activity for a period not to exceed two weeks. Scheduled activities and required hours of participation shall reflect proven job search techniques and the employment environment of the community of the local office and may be varied due to the resources available and the needs of the participants.

Participants who choose job club shall make up absences which occur during the two-week job search period. Additional transportation allowances shall not be paid to these persons. Required child care payments shall be allowed.

c. Job club participants other than designated parents on FIP-UP cases who obtain employment of 86 or more but less than 129 hours per month may discontinue job club if part-time employment was the FIA goal.

d. Job club participants who, during participation, obtain part-time employment of less than 86 hours per month shall continue job club unless the scheduled job club hours conflict with the scheduled hours of employment. PROMISE JOBS participation shall be scheduled to occur during those hours where no conflict with work hours exists.

e. Refer to rule 441—93.122(249C) for job club participation requirements for FIP-UP designated parents.

93.112(2) Individual job search. The individual job search component shall be available to participants for whom job club is not appropriate or not available, such as, but not limited to, participants who have completed training or have recent ties with the work force. The total period for each episode of individual job search shall not exceed 12 weeks or three calendar months.

a. The participant shall, in consultation with PROMISE JOBS staff, design and provide a written plan of the individual job search activities. The plan shall contain a designated period of time, not to exceed four weeks or a calendar month, and the specific locations of the job

search. It shall also contain, but not be limited to, information as specific as possible pertaining to, for example, areas of employment interest and employers to be contacted.

b. Participants who choose individual job search shall receive a child care allowance, if required, and an allowance as described at 93.110(6) to cover costs of transportation, if required.

(1) Payment for required child care shall be limited to 20 hours per week.

(2) The transportation allowance shall be paid in full at the start of each designated time period of the individual job search. The anticipated days for job search shall be included in the written plan so as to provide the most effective use of transportation funds. Transportation allowances for any missed days of job search activity shall be subject to transportation overpayment policies as described at 93.110(8).

93.112(3) Self-directed job search. PROMISE JOBS participants who indicate, during assessment I, a desire to complete a short-term FIA or who have achieved an FIA interim goal which should lead to employment shall be provided the option of first engaging in self-directed job search activities before beginning other FIA options. This option does not apply to parents under the age of 20 who are required to participate in high school completion activities and FIP-UP designated parents who are aged 20 and over.

a. The participant shall, in consultation with PROMISE JOBS staff, design and provide a written plan of job search activities. The plan shall contain a designated period of time, not to exceed four weeks or a calendar month, and the specific locations of the job search. It shall also contain, but not be limited to, information as specific as possible pertaining to, for example, areas of employment interest and employers to be contacted.

b. The participant shall not be required to provide documentation of the job search activities.

c. Transportation and child care allowances are not available for this job search option.

441—93.113(249C) Monitored employment. Employment leading to self-sufficiency is the goal of the FIA. Full-time employment or part-time employment are options under the FIA. Employment shall be the primary activity of the FIA whenever compatible with the self-sufficiency goal. Employment leading to better employment shall be an acceptable option under the FIA. Anticipated and actual hours of employment shall be verified by the participant, when not available from any other source, and documented in the case file. Transportation and child care allowances are not paid through PROMISE JOBS but are covered by FIP earned income deductions.

93.113(1) Full-time employment. Persons who become employed 30 or more hours per week (129 hours per month) while participating in PROMISE JOBS shall meet the obligations of the FIA by continuing in that employment if FIP eligibility continues and the end date of the FIA has not been reached. Persons who have not achieved self-sufficiency through full-time employment before the end date of the FIA may have the FIA extended. Persons who choose not to enter into the renegotiation process to extend the FIA shall be considered to have chosen the LBP.

93.113(2) Part-time employment. Persons who are employed less than 30 hours per week (129 hours per month) shall meet the obligations of the FIA by continuing employment at that level as long as that employment is part of the FIA. For some participants, this may be the only activity described in the self-sufficiency plan of the FIA. For other participants, in order to move to self-sufficiency at the earliest possible time, the FIA shall most often include part-time employment in combination with participation in other PROMISE JOBS activities such as, but not limited to, high school completion, GED, ABE, or ESL, unpaid community service, parenting skills training, or placement on a PROMISE JOBS waiting list.

441—93.114(249C) Assignment to vocational classroom training. Participants who demonstrate capability and who express a desire to participate shall be considered for enrollment in the PROMISE JOBS classroom training component. This component shall also be used to fund the costs of ABE, GED, or ESL and other high school completion activities described in these rules.

93.114(1) Classroom training means any academic or vocational training course of study which enables a participant to complete high school or improve one's ability to read and speak English, or which prepares the individual for a specific professional or vocational area of employment. A training plan shall be based on occupational evaluation and assessment as obtained in accordance with the assessment processes described at rule 441—93.111(249C).

a. The plan shall be approved for training facilities which are approved or registered with the state or accredited by an appropriate accrediting agency. Institutional training can be provided by both public and private agencies.

b. In addition, PROMISE JOBS workers may approve training from community action program agencies, churches, or other agencies providing training, if in the worker's judgment, the training is adequate and leads to the completion of the goal outlined in the employability plan.

c. Training from a particular training facility, community action program agency, church or other agency shall be approved when the worker determines that the training provider possesses appropriate and up-to-date equipment, has qualified instructors, adequate facilities, a complete curriculum, acceptable grade point requirements, a good job-placement history and demonstrates expenses of training that are reasonable and comparable to the costs of similar programs.

d. A participant's request for classroom training services shall be denied when it is determined through assessment that the participant will be unlikely to successfully complete the requested program. Form SS-1104-0, Notice of Decision-Services, shall be issued to the participant to inform the participant that the request for training is denied.

93.114(2) All family members who meet classroom training eligibility criteria shall be eligible for all program benefits, even when two or more family members are simultaneously participating and even if participation is at the same training facility and in the same program.

93.114(3) Academic workload requirements. With the exceptions noted below, participants are expected to maintain a full-time academic workload and to complete training within the time frames specified for a given training program as established by the training facility.

a. Months spent in ABE, GED, or ESL program do not count toward the time limits described below.

b. For purposes of the following participation limitations a month of participation is defined as a fiscal month or part thereof starting with the month PROMISE JOBS classroom training services begin. A fiscal month shall generally have starting and ending dates falling within two calendar months but shall only count as one month of participation.

c. Months of participation need not be consecutive.

d. Except for parents on FIP-UP cases, the client shall be allowed to maintain less than a full-time workload provided that the months required to complete the training plan would not exceed 30 fiscal months for two-year degree programs and other vocational programs or 40 fiscal months for three- or four-year degree programs.

e. Designated parents on FIP-UP cases who are working at least 20 hours per week in a work experience activity shall be allowed to maintain less than a full-time academic workload provided that the months required to complete the training plan would not exceed 40 fiscal months for two-year degree programs and other vocational programs or 50 fiscal months for three- or four-year degree programs.

93.114(4) Clients enrolled in ABE, GED, or ESL programs must be able to complete training in the time determined by testing unless the PROMISE JOBS worker and, if appropriate, the client's academic advisor or instructor agree that additional time should be allowed. Under no circumstances, however, shall more than six additional months be allowed. Additional time shall not be allowed if, as a result, months required to complete training would exceed 24 for ABE or GED or 12 months for ESL.

93.114(5) Clients who have not completed a high school education may be required to do so before other vocational training courses may be arranged. GED or high school training courses and vocational training may run concurrently. Unless under the age of 18, clients

may be approved to return to regular high school only when they can graduate within one year of their normal graduation date.

93.114(6) Testing and grade transcripts before training plan approval. Prior to training plan approval and as part of the continuing assessment process described at rule 441—93.111(249C), staff may require that clients take nationally recognized vocational tests, including the general aptitude test battery, as well as provide grade transcripts from previous training.

93.114(7) Testing prior to plan approval. Prior to plan approval for a client requesting GED, adult basic education, or English as a second language training, testing shall be conducted, when available, to determine a projected length of time for which the plan shall be approved. In regard to GED testing, a transportation allowance as described at subrule 93.10(6) and child care expenses shall be allowed if required in order for the client to participate.

93.114(8) Academic achievement requirements. Clients shall maintain the minimum cumulative grade point average required by the training facility which the client attends. If at the end of any term, a client's cumulative grade point average drops to less than that required by the training facility, the client shall be placed on probation for the next term when the counselor or the lead instructor in the educational program verifies in writing that the student's capability to complete the program has been demonstrated through regular class participation, practical application of course content, or successful work in other courses so that there is an excellent likelihood the student will raise the grade point to the acceptable level in the next semester, that the student will be able to raise the grade point average to the acceptable level through successful completion of the remaining course work and tests, and that the student can still be expected to complete the program satisfactorily within the maximum participation period as required by subrule 93.114(3). This rule does not apply to parents under the age of 18 who are attending high school completion programs.

93.114(9) Clients are expected to maintain a full-time workload as defined by the training facility unless the department or designee has given approval to carry fewer hours in accordance with other requirements of these rules, for example, subrule 93.114(3).

93.114(10) Client responsibilities for plan approval. In order to have a plan approved, clients have the following responsibilities:

a. Rescinded IAB 5/13/92, effective 7/1/92.

b. A client must provide all information required to approve a Family Investment Agreement, Form 470-3095, and FIA Steps to Achieve Self-Sufficiency, Form 470-3096, which include vocational classroom training as an interim goal.

c. Prior to plan approval, and for each academic year of participation, clients shall apply for and accept all available educational financial awards for which they are eligible, including grants and scholarships, but excluding educational loans which require repayment. Training allowances will be authorized to permit enrollment and attendance prior to receipt of educational awards. Otherwise, training allowances shall be authorized only when all educational awards received by the client have been used or allocated, on a month-by-month basis, for allowable training costs in the following payment order: tuition, fees, books, basic school supplies, specific supplies (including tools) related to obtaining credit for a course and required of all students in a course, child care and transportation, and travel costs required for certification or testing. Use of educational awards to pay tuition shall be limited to the actual cost of tuition. Use of awards to pay fees, books, supplies and child care shall be limited to that amount that otherwise would be paid by the program. Use of awards to pay for basic school supplies shall be limited to the standard \$10 allowance described at subrule 93.115(1) or the actual cost, whichever is higher. Actual costs which are claimed in excess of the standard \$10 deduction shall be verified by receipts. Use of awards to pay transportation or travel costs for certification or testing shall be limited to the amount determined by the policies as described at subrule 93.110(6).

(1) A client whose classroom training plan is approved after a term starts may use educational awards issued for that term but received after plan approval to reimburse costs of the

d. When a person described at 93.111(1)“g”(2) and (3) is still within the first quarter or semester of involvement in the person’s chosen training program, expense allowances cannot be approved, even if the training is otherwise approvable, until the person has completed assessment or has successfully completed the first quarter or semester of the training program in accordance with the requirements of the educational institution. Persons involved in training programs where quarters or semesters are not used must successfully complete four months of the training program before assistance can begin.

Assistance shall be approved effective with the second quarter or semester, or with the fifth month of participation in the training program, as applicable to the client’s situation.

93.114(12) Participation allowances. An allowance shall be made for expenses of training. This shall include tuition; fees including graduation, books, basic school supplies, specific school supplies related to obtaining credit for a course and required of all students in a course, GED testing and certificates, required uniforms and other fees required for completion of training; child care; and transportation and travel costs required for certification or testing. In addition, allowances shall be made for enrollment, school testing or school application fees, educational grant or scholarship application fees, and certain practicum expenses as described in 93.114(12)“a”(4). PROMISE JOBS is authorized to provide payment for expenses allowable under these rules to the training facility for the educational expenses of tuition and fees and books and supplies which are provided by the facility and billed to the PROMISE JOBS participant. Payment may also be made to the client in those situations where this is determined to be appropriate by the PROMISE JOBS worker.

a. PROMISE JOBS allowances for classroom training are limited as follows:

(1) Tuition allowance for baccalaureate degree programs shall not exceed the maximum undergraduate Iowa resident rate charged by a state university in Iowa.

(2) Tuition allowances for all other programs shall not exceed the rate charged by the state of Iowa area school located nearest to the participant’s residence which offers a course program comparable to the one in which the participant plans to enroll. If an area school in Iowa does not offer a comparable program, the maximum tuition rate payment shall not exceed the Iowa resident rate charged by the area school located nearest to the participant’s residence.

(3) A standard allowance of \$10 per term or actual cost, whichever is higher, for basic school supplies shall be allowed for those participants who request it and who do not have sufficient educational financial awards to cover purchase of basic supplies or who must purchase basic school supplies before educational awards are received or are made available. A claim for actual costs higher than \$10 must be verified by receipts.

(4) A per diem allowance of \$10 for living costs during a practicum shall be allowed when the practicum is required by the curriculum of the training facility, would require a round-trip commuting time of three hours or more per day, and is not available closer to the client’s home. If practicum earnings or any nonreimbursable assistance is available to meet practicum living costs, no allowance shall be made.

(5) Allowances may also be authorized to meet the costs of travel required for certification and testing, not to exceed the transportation allowance as described at 93.110(6) and the current state employee reimbursement rate for meals and lodging.

(6) No allowance shall be made for any item that is being paid for through earnings that are diverted for that purpose.

(7) Funds may not be used to purchase supplies to enable a participant to begin a private business.

b. Participants shall submit Form PA-8121-5, Estimate of Cost, to initiate allowances or change the amount of payment. Participants shall use PROMISE JOBS allowances which they receive to pay authorized expenses.

c. Participants shall furnish receipts for expenditures which they pay, except for transportation allowances and items purchased with the \$10 standard allowance for basic school sup-

plies, unless issued in accordance with 93.114(12)“a”(3), within ten days of receipt of allowances. Failure to provide receipts will preclude additional payments.

d. Receipts may be requested for allowances paid directly to the training provider if the PROMISE JOBS worker determines it is appropriate.

93.114(13) Payment of allowances.

a. Participant eligibility for payment of transportation and child care allowances shall commence for that month that the participant begins training under an approved plan or is removed from a waiting list as described at 93.105(3), whichever is later, and shall be terminated when training is terminated.

b. PROMISE JOBS responsibility for financial assistance begins with that month during which the participant begins training under an approved plan or is removed from a waiting list as described at 93.105(3), whichever is later.

c. Retroactive payments shall only be allowed under the following conditions:

(1) If plan approval or removal from a waiting list as described at 93.105(3), whichever is later, occurs after the start of the term due to administrative delay or worker delay, payments shall be approved retroactive to the start of the term for which the plan is approved or removal from the waiting list is authorized. If costs were already paid by the participant with private resources, the participant shall be reimbursed. Payment shall be approved for all expenses allowable under these rules.

(2) If plan approval or removal from a waiting list as described at 93.105(3), whichever is later, is delayed due to the suspension of FIP benefits, retroactive payments for the month of suspension shall be made. If costs were already paid by the participant with private resources, the participant shall be reimbursed.

(3) If plan approval is delayed due to the fault of the participant, payment eligibility shall begin with the first day of the month during which the plan is approved or the month in which the participant is removed from a waiting list as described at 93.105(3), whichever is later. In this instance, there shall be no reimbursement for training costs already paid by the participant.

d. In all instances reimbursements shall not be made if costs were paid with educational awards that are not subject to repayment.

e. When a participant receives transportation payments from another program which equals or exceeds that possible under PROMISE JOBS, transportation shall not be paid by PROMISE JOBS for any month covered by the other program. When the amount received from another program is less than that possible under PROMISE JOBS, a supplemental payment may be made as long as the combined payment does not exceed that normally paid by PROMISE JOBS.

f. Payments shall not exceed the rate that the provider would charge a private individual.

93.114(14) Completion or termination of a training plan.

a. Participants who successfully complete their training plans may keep any books or supplies, including tools, which were purchased with PROMISE JOBS funds.

b. Participants who do not complete their training program and do not obtain training-related employment within 60 days of leaving training shall return all reusable supplies, including books and tools, but not clothing, purchased by PROMISE JOBS.

(1) Staff are authorized to donate to nonprofit organizations any items which they determine are unusable by the program.

(2) When tools are not returned, the amount of the PROMISE JOBS payment shall be considered an overpayment unless the participant verifies theft of the tools through documentation of timely report to a law enforcement agency.

c. When a participant enrolled in the classroom training component chooses the limited benefit plan, or drops out of training for reasons which are not described as acceptable at rule 441—93.133(249C), or the training plan is terminated for failure to comply with PROMISE JOBS requirements as specified at 93.114(14)“d”(1), (3), (4), (5), and (6), 93.114(14)“e,” and 93.114(14)“f”(1) and (3), the participant shall be denied additional PROMISE JOBS-funded

classroom training services for a minimum of one year from the time that the participant dropped out, or from the time that the training plan was terminated for failure to comply with PROMISE JOBS requirements. This one-year period of denied classroom training service does not apply to participants who are under the age of 18 and who are required to participate in high school completion activities.

d. A worker shall terminate a training plan for any of the following reasons:

(1) The participant fails to appear for two consecutive scheduled appointments with the worker without good cause. The client shall have been notified of the appointments in writing.

(2) The participant, after a school term of probation as described in 93.114(8), is unable to achieve the cumulative grade point average required by the training facility. This subparagraph does not apply to parents under the age of 18 who are enrolled in high school completion activities.

(3) The participant refuses or fails to apply for outside funding resources when it is known that these sources are available.

(4) The participant misuses expense allowances to the extent that the training plan is no longer achievable.

(5) The participant states that there is no intent to become employed after completing training.

(6) The participant fails to provide verification, as described at 93.135(2), of hours of attendance in an educational program.

e. The training plan shall be terminated immediately for any participant who knowingly provides receipts or any other written statements which have been altered, forged, or, in any way, are not authentic.

f. A worker may terminate a training plan for any of the following reasons:

(1) The participant fails to cooperate in providing information concerning grades, academic progress, financial resources, change of address, change of telephone number, or change of family composition.

(2) It can be documented that the participant's continuation in the training program is detrimental to family functioning.

(3) The participant withdraws from courses or from the training program without prior PROMISE JOBS approval.

g. When it becomes apparent that the participant cannot complete the training plan within the maximum participation limit, as described at 93.114(3), the PROMISE JOBS worker shall determine whether termination of the training plan is appropriate.

(1) When the participant cannot complete the training plan within the maximum participation limit as described at subrule 93.114(3), the worker shall continue the plan and pay expenses, if appropriate, up to the limit of the maximum participation limit when the counselor or lead instructor in the educational program verifies in writing that the student's progress or achievement meets the grade-point requirement, and the student's interest and participation indicate there is likelihood of successful completion of the program, and the remaining coursework could be completed within the additional six-month period of time. In addition, the student must be able to demonstrate access to financial resources which will enable completion of the program during the additional six months.

(2) In addition, when it is determined that the participant can complete the training plan within six months after the expiration of the maximum participation limit described at 93.114(3), the worker shall waive participation in other components after the end of the maximum participation period as long as the participant is attending the training facility.

(3) The PROMISE JOBS worker shall terminate the training plan at the point in time when it becomes obvious that the participant cannot complete the training plan within six months after expiration of the maximum participation period described at 93.114(3).

h. Termination of the training plan is not always considered to indicate a choice of the limited benefit plan. Unless the participant is mandated to participate in high school completion activities, when the PROMISE JOBS worker issues a Notice of Decision: Services, Form

SS-1104-0, to terminate the training plan, the participant has 30 days from the date of the notice to discuss the situation with the PROMISE JOBS worker and attempt to resolve the issues causing termination. Resolution of the issue can mean reinstatement of the training plan or renegotiation and amendment of the FIA. This paragraph in no way affects the participant's ability to appeal the Notice of Decision: Services in accordance with rule 441—93.140(249C).

i. Participants whose PROMISE JOBS training plans are terminated for misuse of funds or for providing records which they have falsified, or participants who fail to return supplies, when required, shall not be eligible for future classroom training services for a period of two years from the date of plan termination.

(1) In addition, future classroom training services shall not be approved unless receipts for previous allowances are provided; PROMISE JOBS-funded items, when required, are returned; or the value of the items is refunded.

(2) When the amount of the PROMISE JOBS payment for tools has been considered an overpayment as described in 93.114(14)“b”(2), the participant may refund the claim balance as recorded in the Overpayment Recovery System to meet this requirement.

441—93.115(249C) Unpaid community service. Unpaid community service shall provide participants with opportunities to establish or reestablish contact with the work force in a non-threatening environment while providing services which are of direct benefit to the community.

93.115(1) Unpaid community service work sites. Unpaid community service work sites shall be public or private nonprofit organizations.

a. When the participant and the PROMISE JOBS worker agree that an unpaid community service placement is appropriate, the participant is responsible for locating and making arrangements with the work site.

b. The PROMISE JOBS provider agencies shall develop local listings of potential unpaid community service work sites which participants can use when selecting a work site.

c. Work site organizations which provide unpaid community service work sites shall receive a written explanation of the following placement criteria. The placement shall:

(1) Not be related to political, electoral or partisan activities.

(2) Not be developed in response to or in any way associated with the existence of a strike, lockout or other bona fide labor dispute.

(3) Not violate any existing labor agreement between employees and employer.

(4) Comply with applicable state and federal health and safety standards.

(5) Not be used by work site organizations to displace current employees or to infringe on their promotional opportunities, shall not be used in place of hiring staff for established vacant positions, and shall not result in placement of a participant in a position when any other person is on layoff from the same or an equivalent position in the same unit.

93.115(2) Appropriate use of unpaid community service. The unpaid community service component is expected to be used by participants for whom more intensive efforts toward self-sufficiency are not appropriate at the moment. Participants may combine this activity with another such as, but not limited to, GED or other high school completion, ESL, FaDSS or other family development services, and parenting skills training. It is expected that the unpaid community service work site will be less demanding than work experience placements and specific skills-training tasks are not required.

93.115(3) Participation requirements.

a. Formal interviews are not required to establish the relationship between the participant and the work site organization.

b. The length of the work site assignment and the weekly hours of participation will be determined through agreement among the work site organization, the participant, and the PROMISE JOBS worker.

c. The director (or designee) of the work site organization shall be asked to verify the monthly hours of participation using Form 470-3097, Unpaid Community Service Monthly Report, provided by the PROMISE JOBS provider agencies.

93.115(4) Allowances for unpaid community service placement. Unpaid community service work sites may offer on-site child care and other participant-friendly services. A child care allowance and a transportation allowance for each month of participation or part thereof, as described at subrule 93.110(6), shall be paid if these services are not provided by the work site organization and are required for participation.

441—93.116(249C) Parenting skills training. Activities which strengthen the participant's ability to be a better parent can be approvable training under PROMISE JOBS as long as the participant is active in at least one other PROMISE JOBS component. Approvable parenting skills training could be enrollment in a parenting education program or any other arrangement which provides specific parenting skills training.

A child care allowance, payment for fees or books, and a transportation allowance for each month of participation, or part thereof, as described at 93.110(6), shall be paid if these services are not provided by any other entity and are required for participation.

441—93.117(249C) Health and safety. The PROMISE JOBS staff may require a person to complete a physical examination prior to including a particular PROMISE JOBS component or other activity in the FIA when a participant specifies or exhibits any physical conditions which might jeopardize successful participation in the program.

93.117(1) Physician's report. The physician should indicate to the best of the physician's knowledge that the person is capable of completing the FIA activity or continuing with appropriate employment.

93.117(2) Rescinded IAB 12/8/93, effective 1/1/94.

93.117(3) Safety precautions. If the FIA activity is so hazardous that safety glasses, hard hats, and so forth are needed, participation shall not be arranged or approved unless these safety precautions are available.

441—93.118(249C) Self-initiated training. Rescinded IAB 12/8/93, effective 1/1/94.

441—93.119(249C) Payment of allowances. Rescinded IAB 12/8/93, effective 1/1/94.

441—93.120(249C) Completion or termination of a plan. Rescinded IAB 12/8/93, effective 1/1/94.

441—93.121(249C) Assignment to work experience.

93.121(1) Work experience requirements. Work experience shall combine work site assignment and job search activities.

a. Participants who choose work experience placement shall be assigned to work sites on a schedule which uses eight hours per day, between the hours of 8 a.m. and 6 p.m., Monday through Friday, unless the participant agrees to another schedule. The number of days per week shall be determined by agreement among the participant, the sponsor, and the PROMISE JOBS worker, with a maximum of four days and a minimum of one day. The number of days, the scheduled hours, and the length of the assignment shall reflect the assessed needs of the participant and the needs of the sponsor, using the standard that participation shall be equivalent to the level of commitment required for full-time employment or significant so as to move toward that level.

b. Work experience placements may be combined with monitored employment or with participation in other PROMISE JOBS activities such as, but not limited to, GED or other high

school completion activities, parenting skills training, postsecondary classroom training, or placement on a PROMISE JOBS waiting list for postsecondary classroom training.

c. In addition to work experience placement, participants shall also engage in job-seeking activities one day per week unless they are also participating in classroom training activities.

Job-seeking activities for work experience participants shall include contacting a minimum of five employers per week unless fewer are specified by staff. Job search contacts shall be documented as described at 93.135(3).

d. Each work experience assignment shall not exceed six months in duration. Persons who complete a work experience assignment may move to another option as provided under the FIA, be assigned to a different work site, or be reassigned to the same work site, whichever is appropriate under the FIA.

e. Participants who are assigned to work experience may move to another component to facilitate regular employment before completing the months of the assignment when it is felt that sufficient work experience has been gained.

93.121(2) Work sites shall provide participants with work experience and on-the-job training opportunities while providing services which are of direct benefit to the community. Work sites shall be limited to public and nonprofit agencies. Participants may be placed at work sites with religious institutions only when work performed is nonsectarian and not in support of sectarian activities. Participants may not be used to replace regular employees in the performance of nonsectarian work for the purpose of enabling regular employees to engage in sectarian activities.

93.121(3) Employers who participate in the work experience program shall be referred to as sponsors. Sponsors who request work experience participant placements shall complete Form WI-3302-0, Sponsor's Request for WEP Placement, for each type of position which they wish to fill and shall include a complete job description specifying all tasks to be performed by the participant. Work experience positions must contain the same job description and performance requirements that would exist if the sponsor were hiring an individual for the same position. PROMISE JOBS has final authority to determine suitability of any work experience position offered by a sponsor. Work experience positions must meet additional criteria as follows:

- a. Shall not be related to political, electoral or partisan activities.
- b. Shall not be developed in response to or in any way associated with the existence of a strike, lockout or other bona fide labor dispute.
- c. Shall not violate any existing labor agreement between employees and employer.
- d. Shall comply with applicable state and federal health and safety standards.
- e. Shall not be used by sponsors to displace current employees or to infringe on their promotional opportunities, shall not be used in place of hiring staff for established vacant positions, and shall not result in placement of a participant in a position when any other person is on layoff from the same or an equivalent position in the same unit.

93.121(4) Vocational skills and interests which the registrant possesses shall be matched as closely as possible with the job description and skills requirement specified by the sponsor.

93.121(5) Participants shall interview for and accept positions offered by work experience sponsors. Participants shall present Form WI-3303-0, Referral for WEP Placement, to the sponsor at the interview. The form shall be completed by the sponsor and returned to PROMISE JOBS.

93.121(6) Although sponsors are expected to accept for placement work experience referrals made by PROMISE JOBS, sponsors may refuse any referrals they deem inappropriate for the position which they have available. Sponsors shall not discriminate because of race, color, religion, sex, age, creed, physical or mental disability, political affiliation or national origin against any program participant. Sponsors who refuse a referral must notify PROMISE JOBS staff in writing of the reason for the refusal.

93.121(7) Sponsors shall complete and provide a monthly evaluation of the participant's performance using Form WI-1103-5, Work Experience Participant Evaluation, to PROMISE JOBS and the participant.

93.121(8) Sponsors shall complete Form WI-1103-5, Work Experience Participant Evaluation, at the time of termination for each work experience participant. When termination occurs at sponsor request the sponsor shall specify the reason for termination and identify those areas of individual performance which were unsatisfactory. For participants who leave to accept regular employment or reach their work experience placement time limit, the sponsor's evaluation shall indicate whether or not a positive job reference would be provided if the participant requested one.

93.121(9) Allowances for work experience placements. Participants assigned to work experience shall receive a child care allowance, if required, and a transportation allowance for each month or part thereof as described at subrule 93.110(6). The portion of the transportation allowance for job-seeking activities shall be determined by including the day of the job search obligation in the normally scheduled days used in the formulas described at subrule 93.110(6).

93.121(10) Required clothing and equipment. Clothing, shoes, gloves, and health and safety equipment for the performance of work at a work site under the program, which the participant does not already possess, shall be provided by the entity responsible for the work site or, in the case of safety equipment which the work site entity does not normally provide to employees, through PROMISE JOBS expense allowances. Under no circumstances shall participants be required to use their assistance or their income or resources to pay any portion of their participation costs.

a. Items which are provided by the entity responsible for the work site shall remain the property of the entity responsible for the work site, unless the participant and the entity agree to a different arrangement.

b. Safety equipment which the entity responsible for the work site does not normally provide to employees, including, but not limited to, steel-toed shoes, may be provided through PROMISE JOBS expense allowances up to a limit of \$100 per participant per work site assignment. Participants who complete the FIA activity keep the safety equipment. Participants who choose the limited benefit plan shall return all reusable safety equipment, excluding clothing.

441—93.122(249C) FIP-UP work program. When required to meet the federal requirements as described at 93.105(1)“c,” one parent from any FIP-UP case shall be enrolled into the FIP-UP work program upon call-up as described at 93.105(2), as one of the FIA options. When both parents are mandatory PROMISE JOBS participants or when one parent is a mandatory participant and one is a volunteer, the PROMISE JOBS worker shall consult with the parents before responsibility is assigned for the FIP-UP work program participation. When one parent is mandatory and one is exempt, the exempt parent may volunteer for PROMISE JOBS in order to fulfill the responsibility for the FIP-UP work program participation. The parent obligated or chosen to fulfill this responsibility shall be known as the designated parent and the FIA shall include the appropriate FIP-UP work program activities for the designated parent.

93.122(1) Activities of the FIP-UP work program. The FIP-UP work program shall provide orientation, assessment I, job club, and work experience activities for the designated parent.

93.122(2) Designated parent referral for work experience placement. FIP-UP designated parents who do not find employment of 129 hours or more per month before completing job club shall be immediately referred for work experience placement.

93.122(3) Educational activities for FIP-UP designated parents under the age of 25.

a. FIP-UP designated parents under the age of 20 who have not completed high school or an equivalent course of education shall meet program participation requirements described at 93.105(1)“c” by participating in educational activities such as high school completion and GED as described at subrule 93.111(11) and English as a second language.

b. FIP-UP designated parents aged 20 through 24 who have not completed high school or an equivalent course of education will meet the FIP-UP work program participation requirement if they are participating in educational activities such as high school completion, GED, English as a second language, and adult basic education (ABE) and these activities are included in an FIA.

93.122(4) Applicable rules. All rules promulgated under 441—Chapter 93, Division II, shall apply to designated parents on FIP-UP cases unless otherwise noted.

93.122(5) Work experience assignment for FIP-UP designated parents.

a. Designated parents on FIP-UP cases shall be assigned to work sites three days per week, eight hours per day, between the hours of 8 a.m. and 6 p.m., Monday through Friday, unless the participant agrees to another schedule, for six-calendar-month periods, at the end of which the participant shall be reassessed and, if appropriate, the designated parent's FIA shall be revised. This revision may include assignment to a different work site, if one is available, or reassignment to the same work site, whichever is appropriate.

b. After each reassessment, a designated parent shall then be reassigned to a work site for another six-calendar-month period.

93.122(6) Recycling for FIP-UP designated parents. When a designated parent has completed three six-calendar-month periods of work experience, the designated parent shall be referred to the first available job club activity at employment services. The participant shall remain in the work experience activity until transfer directly into a job club activity is possible. At the end of the job club activity, the designated parent shall be transferred back to JTPA for assignment to work experience with 30 days of transfer from employment services.

441—93.123(249C) Participation required. Rescinded IAB 3/3/93, effective 5/1/93.

441—93.124(249C) Referral for UP-CWEP services. Rescinded IAB 3/3/93, effective 5/1/93.

441—93.125(249C) JTPA UP-CWEP responsibilities. Rescinded IAB 3/3/93, effective 5/1/93.

441—93.126(249C) UP-CWEP provider agency responsibilities. Rescinded IAB 3/3/93, effective 5/1/93.

441—93.127(249C) Assignment to UP-CWEP work sites. Rescinded IAB 3/3/93, effective 5/1/93.

441—93.128(249C) UP-CWEP relationship with job search activities. Rescinded IAB 3/3/93, effective 5/1/93.

441—93.129(249C) Nonparticipation by volunteers. Volunteer participants are not subject to the limited benefit plan as described at 441—subrule 41.24(8).

93.129(1) Consequences of nonparticipation by volunteers.

a. Volunteer participants who do not schedule or keep an appointment for orientation or who choose not to sign an FIA after attending orientation shall have PROMISE JOBS referral status changed to exempt by the income maintenance worker. No penalty is involved.

b. Volunteers who sign the FIA and choose not to carry out the activities or meet the responsibilities of the FIA, including resolving participation issues as described at rule 441—93.132(249C), shall be deactivated from the PROMISE JOBS program after completion of the conciliation process described below. Volunteers who are deactivated from the program after signing the FIA shall not be eligible for priority program services as long as other participants are waiting for services.

93.129(2) Conciliation period for volunteers. The purpose of the conciliation period is to identify and remove or resolve barriers to participation, to ensure that volunteer participants do not unknowingly lose their right to priority service, and to identify the steps that the participant and the PROMISE JOBS staff will take to ensure successful participation. Concilia-

tion for volunteers shall be provided by a conciliation unit established by the PROMISE JOBS provider agencies in each local service delivery area. PROMISE JOBS staff from DES shall conciliate decisions made by JTPA workers. PROMISE JOBS staff from JTPA shall conciliate DES decisions. The bureau of refugee services shall arrange with PROMISE JOBS staff of DES and JTPA to provide conciliation services when the need arises. If the local service delivery area assigns interagency teams, decisions by a team shall be conciliated by the other teams.

a. When the PROMISE JOBS worker determines that an exempt volunteer, after signing the FIA, has chosen not to carry out the activities or responsibilities of the FIA, the worker shall notify the conciliation unit of the PROMISE JOBS local service delivery area. This notice shall include documentation of the issues of participation or problems of participation which have not been resolved. The conciliation unit shall review the material to determine if the nonfinancial sanction of loss of priority service is applicable.

b. If the conciliation unit disagrees with the PROMISE JOBS worker, the conciliation unit shall contact the worker to resolve the issue.

c. If the conciliation unit agrees with the PROMISE JOBS worker, the conciliation unit shall initiate a 30-day conciliation period by issuing the Notice of Potential Loss of Priority Service—Exempt Volunteers, Form 470-3116, to the participant. The conciliation period begins the day following the day the Notice of Potential Loss of Priority Service—Exempt Volunteers is issued. During this 30-day period, the participant can present additional information to the conciliation unit to resolve the issues of participation or problems with participation, or identify barriers to participation which should be addressed in the FIA.

d. If the participant presents additional information which indicates resolution of issues of participation or problems with participation, or which indicates a barrier to participation which will be addressed in the FIA, the conciliation unit shall review these with the PROMISE JOBS worker, with conciliation staff having the final say. If the conciliation unit finds that the activities of the FIA can be resumed or the FIA can be renegotiated, the conciliation unit shall notify the PROMISE JOBS worker of that finding.

e. If the conciliation unit finds that the participant has chosen not to carry out the activities or responsibilities of the FIA, i.e., the issues and problems are not resolved, barriers to participation are not identified, or the participant indicates unwillingness to include the barriers to participation in a renegotiated FIA, the conciliation unit shall notify the PROMISE JOBS worker to apply the loss of priority services sanction.

441—93.130(249C) Sanctions for mandatory participants aged 16 or 17 who are required to participate in high school completion activities. Rescinded IAB 12/8/93, effective 1/1/94.

441—93.131(249C) Failure to participate in classroom training.

93.131(1) Participants aged 18 and older. FIA-responsible persons and other mandatory PROMISE JOBS participants who choose not to continue to participate in classroom training shall renegotiate the FIA unless the participant is younger than the age of 18.

93.131(2) Participants aged 17 or younger. A participant aged 17 or younger who chooses not to participate in high school completion activities shall be considered to have chosen the LBP. The participant may choose other FIA options only if the local education agency will not allow a participant to enroll in high school completion activities.

441—93.132(249C) Participation issues for FIA-responsible persons. PROMISE JOBS participants who do not carry out the responsibilities of the FIA are considered to have chosen the limited benefit plan, as described at 441—subrule 41.24(8).

The participation issues in this rule are those which are important for effective functioning in the workplace or training facility and to the completion of the FIA.

Participants aged 18 or older who, for reasons other than those described at rule 441—93.133(249C), do not resolve these issues shall be considered to have chosen the limited benefit plan, unless participant circumstances are revealed which indicate that a barrier to participation exists which should be addressed in the FIA.

Those who may be considered to have chosen the limited benefit plan are:

1. Participants who are more than 15 minutes late for a third time within three months of the first lateness, after receiving a written reminder of the importance of complying with the FIA at the time the second lateness occurred.

2. Participants who do not, for a second time after receiving a written reminder of the importance of complying with the FIA at the first occurrence, appear for scheduled appointments, participate in appraisal activities, complete required forms, or take required vocational or aptitude tests, or are absent from activities designated in the FIA or other self-sufficiency plan.

3. Participants who do not, for a second time after receiving written reminder of the importance of complying with the FIA at the first occurrence, notify work experience sponsors or PROMISE JOBS staff of absence within one hour of the time at which they are due to appear.

4. Participants who exhibit disruptive behavior for a second time after receiving a written reminder of the importance of complying with the FIA at the first occurrence. Disruptive behavior means the participant hinders the performance of other participants or staff, refuses to follow instructions, uses abusive language, or is under the influence of alcohol or drugs.

5. Participants who fail to secure required physical examinations after a written request to do so.

6. Participants who continue an offense after being notified that the behavior is disruptive and in what manner it is disruptive.

7. Participants whose performance continues to be unsatisfactory after being notified by program or provider agency staff of unacceptable performance and what is necessary to make performance acceptable. Notification of unsatisfactory performance may be oral initially, but shall be documented to the participant in writing.

8. Participants who make physical threats to other participants or staff. A physical threat is defined as having a dangerous weapon in one's possession and either threatening with or using the weapon or committing assault.

9. Participants who do not accept work experience assignments when the work experience option is part of the FIA or required under the FIP-UP work program.

10. Participants who do not, for a second time after receiving written reminder of the importance of complying with the FIA at the first occurrence, appear for work experience interviews.

11. Participants who do not follow up on job referrals or refuse offers of employment or terminate employment.

12. Participants who do not secure adequate child care when registered or licensed facilities are available.

13. Participants for whom child care, transportation, or educational services become unavailable as a result of failure to use PROMISE JOBS funds to pay the provider or failure to provide required receipts, or when a training plan is terminated based on 93.114(14) "f"(3). Except for persons required to participate in high school completion activities, these actions do not lead to the limited benefit plan for persons in classroom training when the participant chooses other options under the FIA.

14. FIA-responsible persons who are required to participate in high school completion activities and whose training plan is terminated due to failure to refund overpayments or due to failure to provide grade transcripts or reports.

441—93.133(249C) Problems with participation of a temporary or incidental nature. Problems with participation as described below shall be considered to be of a temporary or incidental nature when participation can be easily resumed. These problems are acceptable instances when a participant is excused from participation or for refusing or quitting a job or limiting or reducing hours.

93.133(1) Acceptable instances when a person is excused from participation.

a. Illness. When a participant is ill more than three consecutive days or if illness is habitual, staff may require medical documentation of the illness.

b. Required in the home due to illness of another family member. Staff may require medical documentation for the same reasons as when a participant is ill.

c. Family emergency, using reasonable standards of an employer.

d. Bad weather, using reasonable standards of an employer.

e. Absent or late due to participant's or spouse's job interview. When possible, the participant shall provide notice of the interview at least 24 hours in advance including the name and address of the employer conducting the interview. When 24-hour notice is not possible, notice must be given as soon as possible and prior to the interview.

f. Leave due to the birth of a child. When a child is born during the FIA, necessary absence shall be determined in accordance with the Family Leave Act of 1993.

93.133(2) *Acceptable instances when a person is excused from participation or for refusing or quitting a job or limiting or reducing hours.*

a. Required travel time from home to the job or available work experience or unpaid community service site exceeds one hour each way. This does not include additional travel time necessary to take a child to a child care provider.

b. Except as described in 441—subrule 41.25(5) and 441—paragraph 42.24(1)“c,” work offered is at a site subject to a strike or lockout, unless the strike has been enjoined under Section 208 of the Labor-Management Relations Act (29 U.S.C. 78A) (commonly known as the Taft-Hartley Act), or unless an injunction has been issued under Section 10 of the Railway Labor Act (45 U.S.C. 160).

c. Violates applicable state or federal health and safety standards or workers' compensation insurance is not provided.

d. Job is contrary to the participant's religious or ethical beliefs.

e. The participant is required to join, resign from or refrain from joining a legitimate labor organization.

f. Work requirements are beyond the mental or physical capabilities as documented by medical evidence or other reliable sources.

g. Discrimination by an employer based on age, race, sex, color, handicap, religion, national origin or political beliefs.

h. Work demands or conditions render continued employment unreasonable, such as working without being paid on schedule.

i. Circumstances beyond the control of the participant, such as disruption of regular mail delivery.

93.133(3) *Jobs that participants have the choice of refusing or quitting or limiting or reducing.*

a. Employment change or termination is part of the FIA.

b. Job does not pay at least the minimum amount customary for the same work in the community.

c. Employment is terminated in order to take a better-paying job, even though hours of employment may be less than current.

d. The employment would result in the family of the participant experiencing a net loss of cash income. Net loss of cash income results if the family's gross income less necessary work-related expenses is less than the cash assistance the person was receiving at the time the offer of employment is made. Gross income includes, but is not limited to, earnings, unearned income, and cash assistance. Gross income does not include food stamp benefits and in-kind income.

93.133(4) *Instances when problems of participation could negatively impact the client's achievement of self-sufficiency.* There may be instances where staff determine that a participant's problems of participation are not described in 93.133(1) to 93.133(3), but may be circumstances which could negatively impact the participant's achievement of self-sufficiency. When this occurs, the case shall be referred to the administrator of the division of economic assistance for a determination as to whether the problems are acceptable instances for not participating or for refusing or quitting a job.

441—93.134(249C) Barriers to participation. Problems with participation of a permanent or long-term nature shall be considered barriers to participation and shall be identified in the FIA as issues to be resolved so that participation can result. These barriers may be identified during assessment and shall be part of the FIA from the beginning. When barriers are revealed by the participant during the FIA or are identified by problems which develop after the FIA is signed, the FIA shall be renegotiated and amended to provide for removal of the barriers. FIA-responsible persons who choose not to cooperate in removing identified barriers to participation shall be considered to have chosen the LBP.

Barriers to participation shall include, but not be limited to, the following:

1. Child or adult care is needed before a person can participate or take a job, and the care is not available. Participants are not required to do any activity unless suitable child or adult care has been arranged. In limited instances where special-needs care is not available, it may be most practical for the participant to develop the FIA to identify providing the child or adult care as the FIA option.
2. Lack of transportation.
3. Substance addiction.
4. Sexual or domestic abuse history.
5. Overwhelming family stress.

441—93.135(249C) Required client documentation. Documentation necessary to verify that the PROMISE JOBS participant is carrying out the terms of the FIA shall be provided by the participant.

93.135(1) Written verification. The client can be required to provide written verification of family emergency, lack of transportation, or job search activities. It is the responsibility of the client to notify program staff or work site supervisors as soon as possible that a lack of transportation or family emergency has occurred and the expected duration.

93.135(2) Time and attendance. The participant's hours of attendance in work and training activities shall be verified monthly.

a. When the participant is in the work experience (WEP) component, the hours of participation shall be verified monthly by the work site, within ten calendar days following the end of each month.

b. Rescinded IAB 3/3/93, effective 5/1/93.

c. When work and training services are provided by training institutions, organizations, agencies, or persons outside of the PROMISE JOBS program, unless some other method is agreed to by the provider and PROMISE JOBS staff, the participant's hours of attendance shall be verified on the PROMISE JOBS Time and Attendance Report, Form 470-2617, which shall be signed and dated by the training provider. When a training provider refuses or fails to verify the hours of attendance, a signed and dated statement from the participant on Form 470-2617 shall be accepted in lieu of a signed statement from the training provider. The form shall be returned by the training provider or client within ten calendar days following the end of each month. In those instances when a training provider refuses or fails to return a completed, signed and dated PROMISE JOBS Time and Attendance Report, Form 470-2617, and it is necessary to request that the form be completed by the participant instead, the participant shall be allowed five working days to provide the form, even if the fifth working day falls on or after the tenth calendar day following the end of the month.

d. In those instances where the participant is involved in an activity, other than job search, which is not directly monitored by the PROMISE JOBS worker or an outside training provider, the participant shall record the hours of participation on the PROMISE JOBS Time and Attendance Report, Form 470-2617, and shall sign and date the form. The PROMISE JOBS worker shall review the form. The participant's hours shall be accepted unless the PROMISE JOBS worker has justifiable cause to doubt the accuracy of the hours. If the PROMISE JOBS

worker accepts the hours, the PROMISE JOBS worker shall also sign and date the form. The form shall be returned within ten calendar days following the end of each month. If the hours reported are questioned, the PROMISE JOBS worker shall meet with the participant to resolve the discrepancy. The participant shall provide further verification, if required.

e. When a participant is involved in postsecondary classroom training, or when a mandatory participant is voluntarily involved in high school completion activities, failure to verify hours of attendance as described above shall result in termination of the training plan, and loss of right to priority service for a voluntary participant. When a participant involved in another PROMISE JOBS component fails to verify the participant's hours of attendance, the participant shall lose the right to priority service if a volunteer participant, or enter the limited benefit plan if a mandatory participant.

93.135(3) Job search documentation. Documentation of any job search activities which cannot be documented by the PROMISE JOBS worker shall be provided by the participant using Form 470-3099, Job Search Record. The Job Search Record shall include the name and address of the employer, the name and telephone number of the contact person, the date on which contact was made, and the outcome of the contact. It shall also contain authorization for PROMISE JOBS staff to telephone any listed employer to verify the contact.

The Job Search Record shall be provided within five working days after the last working day of any week during which the participant has made a job search.

93.135(4) Employment verification. When the information is not available from any other source, participants shall verify scheduled and actual hours of employment at the time that employment begins and on a monthly basis thereafter. Participants may use employer statements, copies of pay stubs, or may sign Form MH-2201-0, Consent to Release or Obtain Information, so that the employer may provide information directly to the PROMISE JOBS worker.

Participants shall provide verification of scheduled and actual hours of employment within ten calendar days following the end of each month for ongoing employment.

441—93.136(249C) Duration of probationary periods. Rescinded IAB 12/8/93, effective 1/1/94.

441—93.137(249C) Written notification. Clients shall be notified in writing of all scheduled meetings, component assignments, work site assignments, and participation issues as described at rule 441—93.132(249C). Written notice to the participant shall also be provided when a physical examination, doctor's statement, employment verification, or other verification is required. Participants shall be allowed 45 calendar days from the date notice is mailed to provide a physical examination report. Five working days shall be allowed from the date notice is mailed for a participant to appear for scheduled meetings, component or work site assignments, provide a doctor's statement, employment verification, or provide other verification. Additional time shall be allowed when it is verified that a participant is making every effort but is unable to fulfill requirements within the established time frames.

441—93.138(249C) Resolution of disputes around the FIA and PROMISE JOBS participation.

93.138(1) Informal resolution process. When there is a disagreement between the participant and the immediate PROMISE JOBS worker regarding the participant's FIA or participation in PROMISE JOBS components, the participant can request to talk to the supervisor and request a decision on the dispute. The supervisor shall schedule a face-to-face interview with the participant within 7 days and issue a decision in writing within 14 days of the participant's request.

93.138(2) Resolution process for FIP participants who choose the limited benefit plan before signing the FIA.

a. The Notice of Decision which establishes the limited benefit plan shall inform the FIP participant that there is a 45-day period, beginning with the first day of the limited benefit plan, in which to reconsider the choice of the limited benefit plan without loss of benefits.

(1) When the participant contacts either the income maintenance worker or the PROMISE JOBS office within the 45 days, the participant shall be scheduled for orientation and assessment I.

(2) When the FIA is signed, the PROMISE JOBS worker shall notify the department and the limited benefit plan shall be terminated as of the month that the participant contacted the income maintenance worker or the PROMISE JOBS office. If the participant experiences reduced benefits due to, for example, administrative delay in scheduling appointments, the benefits shall be restored.

b. The Notice of Decision which establishes the limited benefit plan shall also inform the FIP participant that there is a second period, during the last two months of the three-month reduced benefit period, during which a participant who does not reconsider during the 45-day initial reconsideration period may enter the FIA process.

(1) When the participant contacts either the income maintenance worker or the PROMISE JOBS office within the last two months of the three-month period of reduced benefits, the participant shall be scheduled for orientation and assessment I.

(2) During the last two months of the three-month period of reduced benefits, a qualified social services professional shall contact the participant to promote FIA participation and secure the welfare of the children. When the participant indicates, at this time, a desire to participate in the FIA process, the qualified professional shall initiate an appointment with the PROMISE JOBS office and the participant shall be scheduled for orientation and assessment I.

(3) When the FIA is signed the PROMISE JOBS worker shall notify the department and the limited benefit plan shall be terminated as of the month that the participant contacted the income maintenance worker or the PROMISE JOBS office. If the participant experiences further reduced benefits due to, for example, an administrative delay in scheduling appointments, the benefits shall be restored.

c. For a participant who does not enter the FIA process during either of the reconsideration periods, qualified social services professional shall make an inquiry as to the well-being of the children after the period of reduced benefits ends.

93.138(3) *Resolution process for FIP participants who choose the limited benefit plan after completing the FIA.* When the PROMISE JOBS worker finds participation issues and other circumstances which seem to indicate the participant has chosen the limited benefit plan as described in these rules, the worker shall make every effort to negotiate for a solution, clearing misunderstanding of expectations, or identifying barriers to participation which should be addressed in the FIA. Only when the participant and the PROMISE JOBS worker cannot find the grounds to show that the FIA is being fulfilled shall the limited benefit plan be initiated.

a. Before a Notice of Decision establishing the limited benefit plan is issued, the following resolution steps shall occur:

(1) The PROMISE JOBS supervisor shall be involved to provide further advocacy, counseling, or negotiation support. The resolution actions of the supervisor shall be documented in the participant case file.

(2) Local PROMISE JOBS management shall have the option to involve an impartial third party to assist in a resolution process. Arrangements shall be indicated in the local services plan of the local service delivery area.

(3) If the above steps do not lead to fulfillment of the FIA, the case shall be referred to the administrator of the division of economic assistance for review before a Notice of Decision establishing the limited benefit plan is issued.

b. If the above steps do not lead to fulfillment of the FIA, the FIP participant is considered to have chosen the limited benefit plan and the Notice of Decision establishing the limited benefit plan shall be initiated.

c. Appeal rights under the limited benefit plan are described at rule 441—93.140(249C) and judicial review upon petition of the participant is always available.

d. A qualified social services professional shall make an inquiry as to the well-being of the children after the three-month reduced benefit period ends.

93.138(4) Check on the well-being of the children in LBP households. For FIP households who have chosen the LBP, the department shall provide for qualified social services professionals to provide home visits to make inquiry into the well-being of the children in circumstances as described at subrule 41.24(8)“a”(5) and (6). A qualified social services professional is a person meeting the qualifications for education and experience set forth at 441—subrule 185.10(1) for the type of service provided. The department may contract out for these services.

All visits to the FIP household shall be made in the spirit of supporting families which have chosen the LBP. The instructions for the visits shall be written to make it clear that these visits are an extension of the FIP and FIA philosophy of supporting families as they move toward self-sufficiency. If at any of the visits, initial or follow-up, the family denies entry to the qualified social services professional, this fact shall be reported to the department and no further action shall be taken.

a. The qualified social services professional shall visit the family in the last two months of the reduced benefit period, for participants who choose the LBP before signing the FIA. The qualified social services professional shall visit the FIP participant in a spirit of supporting the family to move toward self-sufficiency, which could mean engagement into the FIA process, or exploring with the family their alternative plan, identifying areas where the qualified social services professional can help.

The qualified social services professional’s home visit shall include, but is not limited to, discussing reasons for not participating in the FIA; offering to problem solve with perceived problems of the FIA participation; being a liaison with PROMOSE JOBS and IM; recommending to IM when conditions seem to warrant exemption; assessing family ability to assess their situation and plan for the well-being of the children; discussing specific plans pertaining to, for example, child care, in the future to ensure that the family has realistic plans for the future; using the minimum sufficient level of care concept as the standard for evaluating the family plan for the future; planning appropriate follow-up visits or referrals for services if the minimum sufficient level of care standard is not met.

b. The qualified social services professional shall visit the family after the end of the reduced benefit period for all households which enter the six-month period of ineligibility for the entire eligible group.

For families who choose the LBP before signing the FIA, the qualified social services professional shall visit the FIP participant after the end of the reduced benefit period (in month seven of the LBP) in a spirit of follow-up to the assistance offered in month five or six. It may be seen as an extension of other follow-up visits which have already been made as a result of the earlier visit in month five or six.

For families who choose the LBP by abandoning their agreement after signing the FIA, the visit in month seven shall be offered in the same spirit of supporting the families as they move toward self-sufficiency.

For both of these groups, the steps of the visit shall be the same as described in paragraph “a” above, except that engagement in the FIA process is not possible.

c. The qualified social services professional shall report results of the home visits to the department, using the following categories of response:

- (1) Qualified social services professional was denied entry to the home.
- (2) Why no further involvement is needed.
- (3) The qualified social services professional needs to provide follow-up services or referral to other services, identifying services needed.
- (4) Referral to child protective investigations is warranted based on allegations of child abuse or neglect.

441—93.139(249C) Notice of decision. PROMISE JOBS will send written notice to each client in accordance with 441—Chapter 7 when:

1. Services are approved, rejected, renewed, changed, canceled, or terminated for failure to cooperate or participate. PROMISE JOBS services are considered to be approved at that point in time when the client is assigned to begin participation in the assessment component or when assessment has been waived and the participant is assigned to another PROMISE JOBS component.

2. An expense allowance is offset or the offset amount is changed due to action to recover an overpayment.

441—93.140(249C) Right of appeal. Each applicant and recipient is entitled to appeal and be granted a hearing over disputes regarding services being received or services which have been requested and denied, reduced, canceled, or inadequately provided, and acts of discrimination on the basis of race, sex, national origin, religion, age or handicapping condition according to 441—Chapter 7.

93.140(1) Right to appeal alleged violation of PROMISE JOBS program policy. Participants shall have the right to file a written appeal concerning any alleged violation of PROMISE JOBS program policy as set forth in these administrative rules which is imposed as a condition of participation. The responsible agency (employment services department or Job Training Partnership Act program) shall provide the participant with written documentation which specifies the participation requirement in dispute.

93.140(2) Appeal rights under the limited benefit plan. A person only has the right to appeal the establishment of the limited benefit plan once but there shall be three opportunities to appeal. A person may appeal the limited benefit plan at the time of the Notice of Decision, Form PA-3102-0, establishing the beginning date of the limited benefit plan, at the time of the notice establishing the first month of the period of reduced benefits, or at the time of the notice establishing the six-month period of ineligibility. When the reason for an appeal is based on incorrect grant computation, error in determining the eligible group, or other worker error, a hearing may be granted.

93.140(3) Right to request a hearing. A participant who is enrolled in the PROMISE JOBS program may request a hearing if dissatisfied with working conditions, the availability of workers' compensation coverage or the wage rate used in determining hours of community work experience program participation. When any involved party is dissatisfied with the decision on the appeal, the dissatisfied party shall be informed of the right and, if so desired, assisted with appealing the issue to the Secretary of Labor, at Office of Administrative Law Judges, U.S. Department of Labor, Vanguard Building, Room 600, 111 20th Street N.W., Washington, DC 20036, within 20 days of receipt of the department's final decision. For the purposes of this rule, the department's final decision shall be considered received the second day after the date that the written decision was mailed, unless the intended recipient can demonstrate that it was not received on the second day after the mailing date. When the second day falls on a Sunday or legal holiday, the time shall be extended to the next mail delivery day. The option to appeal to the Secretary of Labor does not preclude an individual from exercising any right to judicial review provided in Iowa Code chapter 17A or as described in 441—Chapter 7.

93.140(4) Right to appeal the content of the family investment agreement. A participant shall have the right to appeal the content of the FIA when the informal resolution process described at 93.138(1) does not resolve a disagreement between the participant and the PROMISE JOBS worker and the participant wishes to continue in the FIA process.

441—93.141(249C) Participant recycling, deactivation, and waiving participation. Rescinded IAB 12/8/93, effective 1/1/94.

441—93.142(249C) Eligibility-termination. Rescinded IAB 12/8/93, effective 1/1/94.

441—93.143(249C) Confidentiality. The departments of education, employment services and economic development, Job Training Partnership Act agencies, and local education agencies shall safeguard client information in conformance with Iowa Code section 217.30.

The department and PROMISE JOBS provider agencies may disclose client information to other state agencies, or to any other entity or person who is not subject to the Iowa Administrative Procedure Act, when that agency or other entity or person must have that information in order to provide services to PROMISE JOBS participants which have been determined to be necessary for successful participation in PROMISE JOBS.

441—93.144(249C) PROMISE JOBS grievance procedure. The PROMISE JOBS program shall provide a grievance procedure to address and resolve public complaints regarding the displacement of regular workers with program participants.

93.144(1) The procedure will provide that:

a. Complaints must be filed in writing and received by the PROMISE JOBS contractee within one year of the alleged violation.

b. A representative of the PROMISE JOBS contractee must schedule a face-to-face interview with the complainant within seven days of the date the complaint is filed, to provide the opportunity for informal resolution of the complaint.

c. Written notice of the location, date and time of the face-to-face interview must be provided.

d. An opportunity must be provided to present evidence at the face-to-face interview.

e. The representative of the PROMISE JOBS contractee shall issue a decision in writing within 14 days of the date a complaint is filed.

f. A written explanation must be provided to all involved parties of the right to file a written appeal, according to 441—Chapter 7, if the opportunity for informal resolution is declined, if a party receives an adverse decision from the PROMISE JOBS contractee, or if there is no decision within the 14-day period.

(1) To be considered, an appeal must be filed with the department within ten days of the mailing date of the adverse decision or ten days from the date on which a decision should have been mailed.

(2) An appeal hearing will not be granted until informal resolution procedures have been exhausted, unless a decision has not been issued within 24 days of the complaint filing date.

93.144(2) The department shall issue a final decision within 90 days of the date the complaint was filed with the PROMISE JOBS contractee.

93.144(3) Any dissatisfied party shall be informed of the right to appeal the decision of the department to the Secretary of Labor at Office of Administrative Law Judges, U.S. Department of Labor, Vanguard Building, Room 600, 111 20th Street N.W., Washington, DC 20036, within 20 days of the receipt of the department's final decision. For the purposes of this rule, the department's final decision shall be considered received the second day after the date that the written decision was mailed, unless the intended recipient can demonstrate that it was not received on the second day after the mailing date. When the second day falls on a Sunday or legal holiday, the time shall be extended to the next mail delivery date. The option to appeal to the Secretary of Labor does not preclude an individual from exercising any right to judicial review as provided in Iowa Code chapter 17A or as described in 441—Chapter 7.

93.144(4) Upon notice of a complaint or grievance, the PROMISE JOBS office must provide the complaining party with a copy of the grievance procedures, notification of the right to file a formal complaint and instruction on how to file a complaint.

93.144(5) Upon filing a complaint, and at each stage thereafter, each complainant must be notified in writing of the next step in the complaint procedure.

93.144(6) The identity of any person who has furnished information relating to, or assisting in, an investigation of a possible violation must be kept confidential to the extent possible,

consistent with due process and a fair determination of the issues.

93.144(7) All employers who participate in the PROMISE JOBS program shall provide assurances that all regular employees are aware of this grievance procedure.

441—93.145(249C) Workers' compensation for PROMISE JOBS work experience participants. The department shall provide workers' compensation coverage for all PROMISE JOBS work experience participants.

441—93.146(249C) Safety rules from PROMISE JOBS work sponsors. Each work experience program sponsor shall provide to the PROMISE JOBS contractee a copy of the safety rules in effect in that entity before participants are referred for work site placement.

441—93.147(249C) Required notices to the department. Rescinded IAB 3/3/93, effective 5/1/93.

441—93.148(249C) Records maintenance. All agencies who contract with the department to provide PROMISE JOBS services shall maintain all records related to the program for three years.

93.148(1) Agencies shall allow federal or state officials access to all records upon request.

93.148(2) Rescinded IAB 3/3/93, effective 5/1/93.

441—93.149(249C) Responsibilities of any organization with a UP-CWEP work site other than the provider agency. Rescinded IAB 3/3/93, effective 5/1/93.

441—93.150(249C) Financial. The provider agency shall receive financial reimbursement as specified in contracts negotiated with each agency. Contracts shall also specify in detail the expenses which are not eligible for reimbursement.

441—93.151(249C) Recovery of PROMISE JOBS expense allowances. When a participant or a provider receives an expense allowance greater than allowed under these rules or a duplicate payment, an overpayment is considered to have occurred and recovery is required. The PROMISE JOBS worker shall notify the department of inspections and appeals (DIA) to record the overpayment in the Overpayment Recovery System at the same time that the client or provider is notified of the overpayment. The outstanding balance of any overpayments which occurred prior to July 1, 1990, shall be treated in the same manner. An overpayment shall be recovered through repayment in part or in full, or through offsetting against future payments in the same category. Underpayments and overpayments may be offset against each other in correcting incorrect payments in the same category. There are three categories of PROMISE JOBS expense allowances, based on the source of federal funding. The first category is child care. The second category is transportation. The third category is all other supportive expense allowances. Repayments received by the PROMISE JOBS unit and information about recoveries made through offsetting shall be transmitted to the Department of Human Services, Cashier's Office.

93.151(1) The PROMISE JOBS worker shall promptly notify the client or the provider of the amount and causes of the overpayment, the date the overpayment was received, and appeal rights using the Notice of Overpayment—PROMISE JOBS Expense Allowances, Form 470-2666. The client or provider has 30 days to appeal the Notice of Overpayment—PROMISE JOBS Expense Allowances. However, the existence and amount of the overpayment must be appealed within 30 days of the issuance of the Notice of Overpayment—PROMISE JOBS Expense Allowances. If a client or provider files an appeal request, the PROMISE JOBS unit shall notify DIA within three working days of receipt of the appeal request.

a. Actual offsetting in the PROMISE JOBS office cannot begin until after the end of the 30-day appeal period which begins with the day following issuance of the Notice of Overpayment—PROMISE JOBS Expense Allowances. If a client or a provider files an appeal request during the 30-day appeal period, the PROMISE JOBS unit shall not initiate offsetting until the appeal is resolved by withdrawal or a final appeal decision which permits offsetting as a method of overpayment recovery.

b. When a client or a provider offers repayment in part or in full before the end of the 30-day appeal period, the PROMISE JOBS unit or the department of human services local office shall accept the payment. If a subsequent appeal request is received, the PROMISE JOBS unit shall notify DIA and shall not accept any further payments on the claim. The amount of the voluntary payment shall not be returned to the client or provider unless the final decision on the appeal directs the department to do so.

93.151(2) When offsetting is to be used to recover the overpayment, the PROMISE JOBS worker shall issue a Notice of Decision-Services, Form SS-1104-0, after the end of the 30-day appeal period, informing the client or the provider of the amount to be offset. In those instances where the amount to be offset changes, a new Notice of Decision-Services shall be issued. The notice must be timely and the client or provider has the right to appeal the notice which initiates offsetting and any subsequent notice which changes the amount to be offset.

93.151(3) When a participant receives an overpayment and is unable or unwilling to make a refund, the PROMISE JOBS worker shall recover the overpayment by offsetting it against future months' expenses in the same category.

a. In those instances when the PROMISE JOBS worker is offsetting to recover a child care overpayment, sufficient current child care shall be paid to ensure the availability of child care to the participant.

b. In those instances when the PROMISE JOBS worker is offsetting to recover support services, sufficient current expenses shall be paid to enable continued participation in the activity.

c. When it becomes impossible to recover through offsetting, either because the participant is no longer participating in PROMISE JOBS or because any potential offsetting would jeopardize the participant's progress toward the employment goal, the PROMISE JOBS worker shall notify DIA so that recovery procedures can be initiated.

93.151(4) When a child care provider or support services provider receives an overpayment on behalf of a PROMISE JOBS participant and is unable or unwilling to make a refund, the PROMISE JOBS worker may recover the overpayment by offsetting it against future months' expenses for the same client.

a. The period of time available to complete the offsetting will be limited according to the amount of the overpayment. For amounts up to \$500, three months is the maximum period; for amounts over \$500 and up to \$1,000, six months is the maximum period. Offsetting shall not be initiated for overpayments which do not meet these limits.

b. When it becomes impossible to recover through offsetting, because the client is no longer participating in PROMISE JOBS, or because the overpayment amount exceeds the limits described in paragraph "a" above or because the provider will deny service to the client if offsetting is initiated, the PROMISE JOBS worker shall notify the DIA so that repayment procedures can be initiated.

c. If the provider does not agree that an overpayment has occurred or will deny service to the client if offsetting is initiated, the PROMISE JOBS worker shall not initiate offsetting. The worker shall explain that DIA will contact the provider regarding recovery procedures and shall explain appeal rights as found in 441—Chapter 7.

93.151(5) When a client or a provider has been referred to DIA to initiate recovery, DIA shall use the same methods of recovery as are used for the FIP program, described at DIA rules 481—71.1(10A) to 71.9(10A), except that the FIP grant shall not be reduced to effect recovery without the client's written permission.

a. When the client requests grant reduction on the Agreement to Repay, Form PA-3164-0, grant reduction will be made as described in subrule 441—46.25(3), paragraphs “a,” “b,” and “c,” based on definitions of client error and agency error in rule 441—46.21(239).

b. With regard to provider overpayments, DIA is authorized to take any reasonable action to effect recovery such as, but not limited to: informal agreements, civil action, or criminal prosecution. However, DIA shall not take any action which would jeopardize the participant’s continued participation in the PROMISE JOBS program.

441—93.152(249C) Disadvantaging the family by a change in child care method. In the case of a family which was receiving ADC from Iowa on October 13, 1988, based on application of child care through the provision of special needs, if the family would be disadvantaged as a result of meeting the cost of child care through PROMISE JOBS, the family’s ADC eligibility and payment (including child care needs) shall be determined as if the method of provision which was applicable on October 31, 1988, is still in effect.

These rules are intended to implement Iowa Code sections 239.2 and 239.5 and chapter 249C and 1991 Iowa Acts, chapter 267, section 111, subsection 1.

- [Filed emergency 6/29/89 after Notice 5/3/89—published 7/26/89, effective 7/1/89]
- [Filed 12/15/89, Notice 7/26/89—published 1/10/90, effective 3/1/90]
- [Filed 4/13/90, Notice 2/21/90—published 5/2/90, effective 7/1/90]
- [Filed without Notice 7/13/90—published 8/8/90, effective 10/1/90]
- [Filed 9/28/90, Notice 8/8/90—published 10/17/90, effective 12/1/90]
- [Filed 5/17/91, Notice 3/20/91—published 6/12/91, effective 8/1/91]
- [Filed emergency 6/14/91—published 7/10/91, effective 7/1/91]
- [Filed 9/18/91, Notice 7/10/91—published 10/16/91, effective 12/1/91]
- [Filed emergency 10/10/91 after Notice 8/21/91—published 10/30/91, effective 11/1/91]
- [Filed 11/15/91, Notice 9/18/91—published 12/11/91, effective 2/1/92]
- [Filed 4/16/92, Notice 2/19/92—published 5/13/92, effective 7/1/92]
- [Filed 2/10/93, Notice 1/6/93—published 3/3/93, effective 5/1/93]
- [Filed 6/9/93, Notice 4/14/93—published 6/23/93, effective 8/1/93]
- [Filed emergency 9/17/93—published 10/13/93, effective 10/1/93]
- [Filed emergency 11/12/93—published 12/8/93, effective 1/1/94]
- [Filed 12/16/93, Notice 10/13/93—published 1/5/94, effective 3/1/94]
- [Filed 2/10/94, Notice 12/8/93—published 3/2/94, effective 5/1/94]

b. The casino shall be limited to 30 percent of the total accessible area of the boat including, but not limited to: patron areas, administrative areas, kitchens, engine rooms, crew areas, open top decks, surveillance areas and walkways.

c. Dice, roulette, twenty-one and big six (roulette) will be allowed as table games. Slot machines, progressive slot machines, video poker and all other video games of chance will be allowed as machine games subject to approval of individual game prototypes.

d. A minimum of one table game will be offered for every 20 machine games offered.

e. The minimum payout on each machine game shall be 80 percent. A weighted average payout of all machine games shall be posted at the point of ticket sales.

f. Wagering is allowed to exceed \$5 per hand on twenty-one when traditional insurance, doubling or splitting of hands occur. Each wager at dice shall be considered a separate play when enforcing the wagering limit of \$5. A wagering limit of \$6 shall apply to individual place bets on the numbers six and eight at the dice table.

g. There will not be a mandated minimum admission fee.

h. The acceptance of personal checks and credit cards will be allowed.

i. Qualified excursions, during all seasons, shall consist of a passenger embarkation period and a minimum two and one-half-hour period during which admissions from that port of call are prohibited. During the excursion season, a maximum period of one and one-half hours will be allowed for embarking or disembarking passengers. Qualified excursions shall actually be in transit for a minimum of two hours during the regular excursion season. The number of excursions per day is not limited. An excursion gambling boat must operate a qualified excursion for 120 days during the excursion season to operate during the off-season, although a waiver may be granted by the commission in the first year of a boat's operation if construction of the boat was not completed in time for the boat to qualify.

j. The minimum capacity necessary for an excursion gambling boat to be eligible for licensure is 500 persons with a ticket of admission.

k. A qualified sponsoring organization may apply for a license for more than one boat with identical or different operators. Each request for a boat will be considered a separate application for purposes of these rules.

l. Licenses will be issued for not more than an original three-year period and subject to annual renewals thereafter.

m. An on line computer system to track slot machine data will be required.

20.10(6) Terms. For purposes of these rules, the terms "stock" and "stockholder" shall also be defined as meaning "members" and "membership interest in" for nonprofit corporations organized under Iowa Code, chapters 504A and 504B.

20.10(7) Confidentiality. Applicants shall designate those portions of the application which they wish the commission to keep confidential. The commission staff will review any request for confidentiality and shall only grant the request if it complies with Iowa Code section 22.7. Nothing in this rule shall be construed as to limit access to public records as defined in Iowa Code chapter 22.

20.10(8) Commission action on application. The commission may grant a license to conduct excursion gambling conditioned upon specific performance within specific time periods of actions or involvement as proposed. If performance required by the commission has not occurred within the time frame established, the commission may revoke the license.

20.10(9) Notice of hearing. Notice of hearing will be given by letter to all applicants for excursion gambling boat licenses. This notice will identify the time and place when their applications will come before the commission for review and consideration. The applicants are required to attend the meeting of the commission. They may be represented at the meetings by an attorney or agent. The commission will notify the applicant in writing of the disposition of the application.

20.10(10) All applicants shall sign and verify the application. It is grounds for denial of an application for a license, for the imposition of a fine, or for the suspension or revocation of a license for any person to make or fail to make any statement of material fact in any application, notice, statement or report filed with the commission, if the presence or absence of the statement could confuse or mislead the commission.

491—20.11(99F) Items included in application.

20.11(1) *Balance sheets and profit and loss statements.* The applicant shall attach to the application, balance sheets and profit and loss statements for each of the three fiscal years immediately preceding the application, or for the period of organization if less than three years. If the applicant has not completed a full fiscal year since its organization or if it acquires or is to acquire the majority of its assets from a predecessor within the current fiscal year, the financial information shall be given for the current fiscal year. If the applicant is a subsidiary organization, the applicant shall submit the appropriate balance sheets and profit and loss statements for all subsidiary organizations of the applicant. Balance sheets, profit and loss statements, and all other financial statements required herein shall be prepared, audited and certified by independent, certified public accountants in accordance with generally accepted accounting procedures and practices accepted on a consistent basis. Any report containing exceptions of a material nature will not be considered to be certified.

20.11(2) *Loans and legal actions.* The applicant shall state all loans by applicant and describe fully the name of the borrower, amount of the loan, collateral, and terms. The applicant shall briefly describe any pending legal proceedings to which the applicant or any of its subsidiaries, partners or parent corporation is a party or of which any of their property is the subject. Include the name of the court or agency in which the proceedings are pending, the date instituted, and the principal parties thereto.

20.11(3) *Owning an interest.* State if the applicant, its directors, officers, policy-making manager, partners or stockholders have owned an interest in any firm, partnership, association, or corporation previously licensed by the Iowa racing and gaming commission or are now or have been engaged in the business of racing or gaming outside of the state of Iowa.

20.11(4) *Contracts.*

a. Management contracts between a proposed or licensed qualified organization and another organization, including a for-profit organization, are permitted. Such contracts must contain the following provisions:

(1) The contract and any future amendments thereto must be subject to the approval of the Iowa racing and gaming commission.

(2) The contract must preclude the operator, its officers, directors, partners and shareholders from having a share, percentage or proportion of the money received for admissions to the excursion gambling boat.

(3) The contract must state that both parties jointly accept the responsibility for compliance with the laws of Iowa and the rules of the commission.

(4) The contract must contain a provision allowing the full verification of contract compliance for both parties and remedies if either party is not in compliance.

(5) The contract must prohibit the subcontracting of any duty related to casino gambling.

b. The applicant shall state all contracts by the applicant entered into within the year preceding the date of application and all executory contracts not otherwise described pursuant to these rules in which the annual consideration exceeds \$50,000 and describe fully, including the duration, the names of the parties to the contract, amount of consideration and terms.

20.11(5) *Direct remuneration.* As used in this paragraph, direct remuneration shall include salary, retirement benefits, dividends, automobiles furnished, expenses reimbursed, and all other sums paid for the benefit of the officer, director or other recipient. The applicant shall list all direct remuneration paid by the applicant and its subsidiaries, or parent corporation if any, during the applicant's last fiscal year to:

a. Each director and officer of the applicant whose aggregate direct remuneration exceeded \$10,000 naming each person;

b. All directors of the applicant as a group naming each person;

c. All officers of the applicant as a group naming each person;

491—20.21(99F) Subsequent license applications.

20.21(1) Every licensee, and person associated with a licensee, and every qualified sponsoring organization, and persons associated with or members of a qualified sponsoring organization, shall file a statement with the commission whenever they become a partner, limited partner, officer, director or the beneficial owner, directly or indirectly, of more than 10 percent of any class of security of any partnership, limited partnership, corporation, association or entity which engages in, conducts or participates in any racing, gaming or gambling activities.

20.21(2) The statement shall contain the following information:

a. The name and address of the entity and a description of its organization (i.e., partnership, corporation, etc.).

b. The type of racing, gaming, or gambling activities.

c. The name and address of all other participants (i.e., partners, officers, directors, shareholders) in the racing, gaming or gambling entity.

d. The relationship of the licensee or qualified sponsoring organization, or any person associated with or a member of a licensee or sponsoring organization, with the racing, gaming or gambling entity.

e. The identity of any state or local agency which has jurisdiction over the racing, gaming or gambling activities of the entity.

f. Any other information required by the Iowa racing and gaming commission.

The commission may deny, revoke, suspend, limit, condition, or restrict any license on finding that the licensee is associated with, or controls, or is controlled by, or is under common control with, an unsuitable person.

These rules are intended to implement Iowa Code chapter 99F.

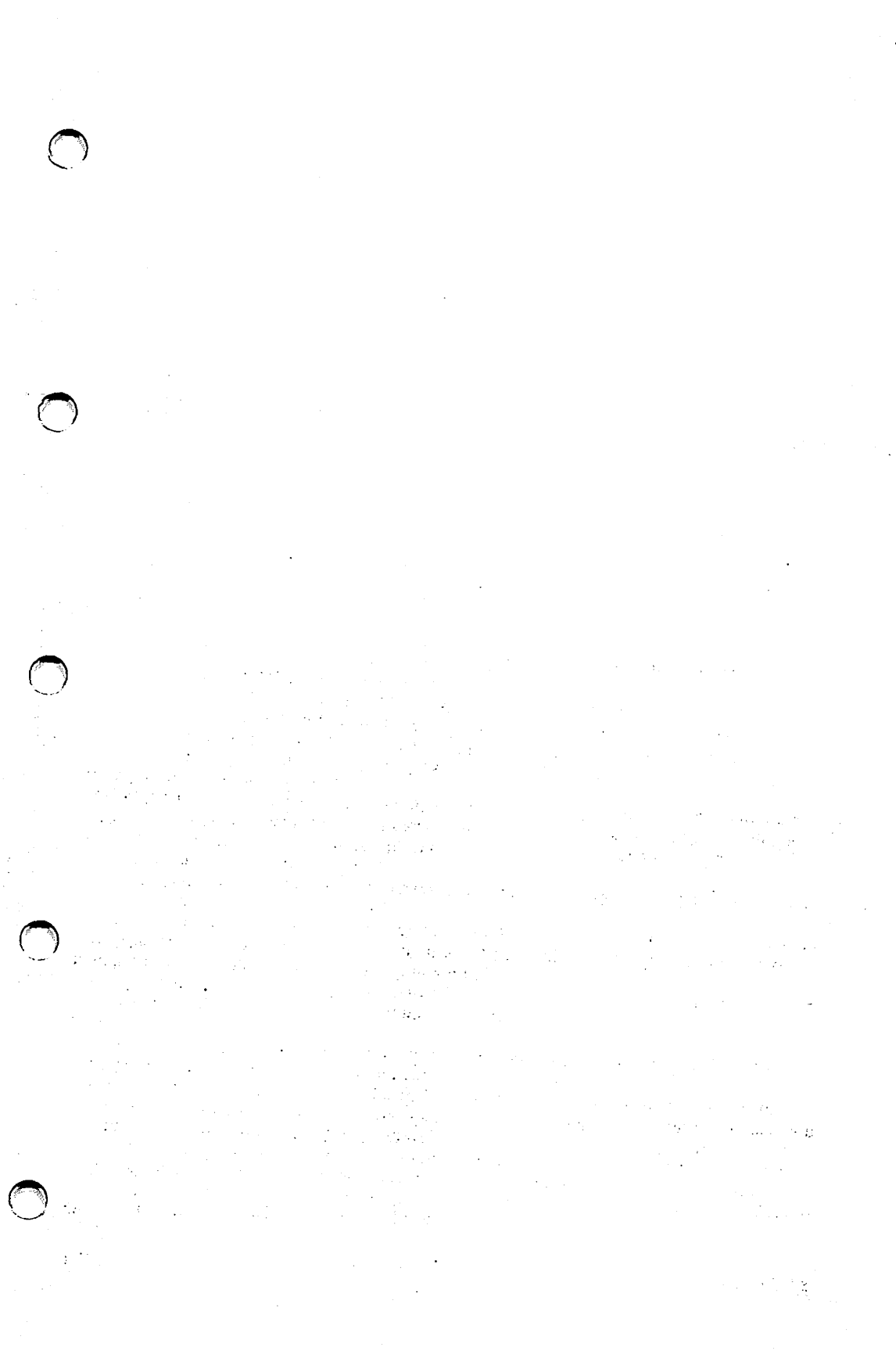
[Filed 12/4/89, Notice 10/18/89—published 12/27/89, effective 1/31/90]

[Filed 1/18/91, Notice 11/14/90—published 2/6/91, effective 3/13/91]

[Filed emergency 8/2/91—published 8/21/91, effective 8/2/91]

[Filed 12/6/91, Notice 10/16/91—published 12/25/91, effective 1/29/92]

[Filed 2/1/94, Notice 11/10/93—published 3/2/94, effective 4/6/94]



which such person shall make a video recording with the time and date inserted thereon of the entire counting process.

24.31(7) Coin shall not be removed from the slot count room after commencement of the count until the coin has been recounted and accepted by a cashier.

24.31(8) Procedures and requirements at the conclusion of the count shall be the following:

a. The wrapped tokens removed from the drop bucket shall be counted in the count room in the presence of a count team member by a cashier prior to the recording of information on the slot drop sheet. The cashier shall attest by signature on the slot drop sheet to the accuracy of the amount of tokens received from the slot machines; after which a count team member shall sign the slot drop sheet evidencing the fact that both the cashier and count team have agreed on the total amount of tokens counted. The tokens thereafter shall remain in the custody of cashiers.

b. The slot drop sheet and supporting documents shall be transported directly to the accounting department or to locked storage until accounting representatives are available and shall not be available except for signing to any cashier's cage or slot personnel.

c. The preparation of the slot drop sheet shall be completed by accounting department employees as follows:

(1) Compare for agreement for each slot machine the dollar value of tokens counted to the drop meter reading.

(2) Record for each machine the hopper fills to each slot machine.

(3) Record for each slot machine the payouts and compare for agreement payouts to the manual jackpot meter reading recorded on the slot meter sheet.

(4) Calculate and record the win or loss for each slot machine.

(5) Explain and report for corrections of apparent meter malfunctions to the slot department all significant differences between meter readings and amounts recorded.

(6) Calculate statistics by slot machine.

d. The slot drop sheet, the slot meter sheet, payouts and hopper fills shall be:

(1) Compared for agreement with each other and to triplicates or stored data on a test basis.

(2) Reviewed for the appropriate number and propriety of signatures on a test basis.

(3) Accounted for by series numbers.

(4) Tested for proper calculation, summarization and recording.

(5) Subsequently recorded.

(6) Maintained and controlled by accounting department employees.

491—24.32(99F) Computer recording requirements and monitoring of slot machines.

24.32(1) A licensee will have a computer connected to slot machines in the casino to record and monitor the activities of such machine.

24.32(2) The computer required by 24.32(1) shall be designed and operated to automatically perform the function relating to slot machine meters in the casino as follows:

a. Record the number and total value of tokens placed in the slot machine for the purpose of activating play.

b. Record the number and total value of tokens in the drop bucket of the slot machines.

c. Record the number and total value of slot tokens, cash or chips to be paid manually as the result of a jackpot.

24.32(3) The computer shall store in machine-readable form all information required by 24.32(2) and such stored data shall not be susceptible to change or removal by any personnel prior to submission to the central commission office.

These rules are intended to implement Iowa Code chapter 99F.

[Filed 11/28/90, Notice 10/17/90—published 12/26/90, effective 1/30/91]

[Filed 12/6/91, Notice 10/16/91—published 12/25/91, effective 1/29/92]

[Filed emergency 9/25/92—published 10/14/92, effective 9/25/92]

[Filed 12/18/92, Notice 10/14/92—published 1/6/93, effective 2/10/93]

[Filed emergency 3/22/93—published 4/14/93, effective 3/22/93]

[Filed 4/19/93, Notice 3/3/93—published 5/12/93, effective 6/16/93]

CHAPTER 25
RIVERBOAT OPERATION

[491—Chapters 20 to 25, relating to Games of Skill, Chance, Raffles and Bingo, transferred to 481—Chapters 100 to 105, 6/14/89 IAB]

25.1 to 25.9 Reserved.

491—25.10(99F) Licensing.

25.10(1) *Who may apply.* A qualified sponsoring organization may apply for a license for more than one boat with identical or different operators. Each request for a boat will be considered a separate application for purposes of these rules.

25.10(2) *License period.* Licenses will be issued for not more than an original three-year period and subject to annual renewals thereafter.

491—25.11(99F) Casino.

25.11(1) *Area utilized for the casino.* The casino shall be limited to 30 percent of the total accessible area of the boat including, but not limited to: patron areas, administrative areas, kitchens, engine rooms, crew areas, open top decks, surveillance areas and walkways.

25.11(2) *Gambling games authorized.*

a. Dice, roulette, twenty-one and big-six (roulette) are authorized as table games.

b. Slot machines, progressive slot machines, video poker and all other video games of chance will be allowed as machine games, subject to the approval of individual game prototypes. A weighted average payout on all machine games shall be posted at the point of ticket sales.

c. A minimum of one table game will be offered for every 20 machine games offered.

25.11(3) *Checks and credit cards.* The acceptance of personal checks and credit cards will be allowed; however, “counter” checks will not be allowed, and all checks accepted must be deposited in a bank by the close of the banking day following acceptance.

491—25.12(99F) Riverboat uniform requirements.

25.12(1) A boat utilized for gaming purposes must meet or exceed uniform requirements for passenger vessels as specified in Title 46, Code of Federal Regulations. All such boats shall conduct and log all drills and actions required to be logged under subchapter “h” as of April 1, 1992. The minimum capacity necessary for an excursion gambling boat is 500 persons with tickets for admission.

25.12(2) Boats must be self-propelled. A boat may contain more than one “vessel” as defined by the U.S. Coast Guard. In order to be utilized for gaming purposes, the vessel containing the casino must either contain a permanent means of propulsion or have its means of propulsion contained in an attached vessel. In the event that the vessel containing the casino is propelled by a second vessel, the boat will be considered self-propelled only when the vessels are designed, constructed and operated as a single unit. In addition, all vessels must comply with all operating conditions as stated on the certificate of inspection as issued by the U.S. Coast Guard and vessels containing passengers must comply with U.S. Coast Guard passenger vessel standards for fire systems. The boat must comply with U.S. Coast Guard standards for lifesaving, steering, main propulsion and bilge systems.

491—25.13(99F) Excursions.

25.13(1) *Excursion length.* Qualified excursions, during all seasons, shall consist of a passenger embarkation period and a minimum two and one-half hour period during which admissions from that port of call are prohibited. During the excursion season, a maximum period of one and one-half hours will be allowed for embarking or disembarking passengers. During the off-season, a maximum period for embarking or disembarking shall not be established. Qualified excursions shall actually be in transit for two hours during the regular excursion season. An excursion gambling boat must operate a qualified excursion for 120 days during

and necessary office equipment, for the exclusive use of commission employees and officials, as well as a work space on the boat. Also, the licensee shall make available to the commission appropriate parking places for commission and staff. A proposal for such facilities shall be submitted to the administrator for approval 60 days prior to an excursion season if there is to be a change from the previous season.

25.19(3) Sanitary facilities for patrons. Each licensee shall provide adequate and sanitary toilets and washrooms and furnish free drinking water for patrons and persons having business on the boat or boat support facilities.

25.19(4) First-aid room. Each licensee shall equip and maintain adequate first-aid facilities and have in attendance a competent physician, a registered nurse, a licensed practical nurse, a paramedic or an emergency medical technician during business hours.

25.19(5) Ejection or exclusion. A licensee may eject or exclude any person, licensed or unlicensed, from the grounds or boat or a part thereof, solely of its own volition and without any reason or excuse given, provided ejection or exclusion is not founded on race, creed, color, or national origin.

The licensee shall eject or exclude from the grounds or boat all persons believed to be engaged in a bookmaking activity or solicitation of bets and a report shall be submitted promptly to the commission officials and to the division of criminal investigation.

Licensees shall eject or exclude all persons who participate or encourage others to participate in any illegal gaming. Reports of all ejections or exclusions for any reason shall be made immediately to the commission officials and the division of criminal investigation and shall state the names of all persons and circumstances.

The commission may exclude any person ejected by a licensee from any or all grounds or boats controlled by any licensee upon a finding that attendance of the person would be adverse to the public interest.

25.19(6) Admissions. In addition to the requirements of Iowa Code section 99F.10(1) "c" and "d," tax-exempt admission passes shall not be transferable and licensees shall exclude or eject from the boat any person attempting to use tax-exempt admission credentials not issued to that person. Tax-exempt passes shall be limited to guests of the commission and holders of current valid occupational licenses, except that tax-exempt passes may be issued by the licensee if prior approved by the administrator.

All gates used for admission of patrons must be approved by the commission.

All licensees must give a ticket good for one admission to each person having paid an admission charge on a day when excursions are discontinued due to weather, malfunction of equipment, or other unforeseen circumstances which might prevent the patron from participating in a major portion of any excursion conducted by the licensee.

The number of tickets distributed shall be reported to the racing and gaming commission the day of the cruise.

25.19(7) Enforcement of commission rules. Every license in Iowa is granted upon the condition that the licensee shall accept, observe, and enforce the rules. Failure to comply with the rules of the commission may result in penalties the commission deems proper, including revocation of the license.

25.19(8) Remodeling. For any change to be made in land-based structures directly associated with gaming or in the structure of the boat itself, the licensee must first submit plans to and receive the approval of the administrator. When such plans are submitted, the administrator shall render a decision within five days after the next commission meeting.

491—25.20(99F) Taxes and admission fees.

25.20(1) Annual taxes and fees. All taxes and fees, whose collection by the state is authorized under Iowa Code chapter 99F, shall be accounted for on a fiscal year basis, each fiscal year beginning on July 1 and ending on June 30.

25.20(2) Admission fees. Admission fees whose collection by the state is authorized under Iowa Code section 99F.10(2) shall be set for the following fiscal year by the commission on or before the June meeting of the commission. The total amount payable to the commission shall be determined on a per boat basis with each responsible licensee paying a proportionate amount of the total amount appropriated to the commission, less any prior year surplus from license fees collected by the commission. The admission fee will be assessed upon each person embarking upon an excursion gambling boat in the manner prescribed in paragraph "a" or "b" below. The responsible licensee may elect either of the two methods of payments prescribed in paragraphs "a" and "b" below. Such election must be made two weeks prior to the beginning of excursion boat gambling in each fiscal year and remain unchanged until the following fiscal year.

a. A prospective admission fee for each person embarking upon the excursion gambling boat will be established. The fee will be determined by the commission by dividing the proportionate amount allocable to the boat by 80 percent of the anticipated passenger count for that boat during the fiscal year. Any excess collected or deficit incurred different from the allowable amount shall be forwarded to the following fiscal year in determining the admission fee for that year.

b. A retrospective admission fee for each person embarking upon the excursion gambling boat will be established. The fee will be paid weekly during the fiscal year and determined by the commission by dividing the amount allocable to the boat by 52. The per passenger amount will be determined at the close of the fiscal year.

25.20(3) Submission of taxes and admission fees. All moneys collected for and owed to the commission or state of Iowa under Iowa Code chapter 99F shall be accounted for and itemized on a weekly basis on a form provided by the commission. A week shall begin on Monday and end on Sunday. The reporting form and the moneys owed must be received in the commission office by the close of business on the Thursday following the week's end.

491—25.21(99F) Slot machines and video games of chance movement. Reports must be filed with the commission on movements of slot machines and video games of chance into and out of the state of Iowa. Reports must be on forms provided by the commission and must be received in the commission office no later than 15 calendar days after the movement.

These rules are intended to implement Iowa Code chapter 99F.

[Filed 2/15/91, Notice 12/26/90—published 3/6/91, effective 4/10/91]

[Filed 12/6/91, Notice 10/16/91—published 12/25/91, effective 1/29/92]

[Filed emergency 12/12/91—published 1/8/92, effective 12/12/91]

[Filed 2/12/92, Notice 1/8/92—published 3/4/92, effective 4/8/92]

[Filed 5/22/92, Notice 4/15/92—published 6/10/92, effective 7/15/92]

[Filed emergency 9/25/92—published 10/14/92, effective 9/25/92]

[Filed 12/18/92, Notice 10/14/92—published 1/6/93, effective 2/10/93]

[Filed emergency 3/22/93—published 4/14/93, effective 3/22/93]

[Filed 5/21/93, Notice 4/14/93—published 6/9/93, effective 7/14/93]

[Filed 2/1/94, Notice 11/10/93—published 3/2/94, effective 4/6/94]

b. Levees. Levees protecting excavations shall meet the requirements of 72.11(1)“a” pertaining to miscellaneous structures, obstructions, or deposits.

c. Control of surface runoff into rock quarries. When the department investigates an application for approval of excavation of a quarry in carbonate rock on a flood plain or floodway, the department shall consider the potential for pollution of an underground watercourse or basin from drainage of surface water into the quarry. If available information including topographic and geological information support a finding that drainage of surface water into the quarry would constitute a violation of the permit requirement in Iowa Code section 455B.268(3) and might cause pollution of an underground watercourse or basin if not controlled, then the department shall require that the applicant either request a permit under Iowa Code sections 455B.268(3) and 51.5(455B) of these rules to authorize drainage of surface water into the quarry, or construct and maintain a means of controlling drainage of surface water which would otherwise drain into the quarry.

These rules are intended to implement Iowa Code sections 455B.262, 455B.264, 455B.270, 455B.275 and 455B.277.

567—72.12 to 72.29 Reserved.

DIVISION II
GENERAL CRITERIA

567—72.30(455B) General conditions. Department orders approving an activity or project shall be subject to the following conditions.

72.30(1) Maintenance. The applicant and any successor in interest to the real estate on which the project or activity is located shall be responsible for proper maintenance.

72.30(2) Responsibility. No legal or financial responsibility arising from the construction or maintenance of the approved works shall attach to the state of Iowa or the agency due to the issuance of an order or administrative waiver.

72.30(3) Lands. The applicant shall be responsible for obtaining such government licenses, permits, and approvals, and lands, easements, and rights-of-way which are required for the construction, operation, and maintenance of the authorized works.

72.30(4) Change in plans. No material change from the plans and specifications approved by the department shall be made unless authorized by the department.

72.30(5) Revocation of order. A department order may be revoked if construction is not completed within the period of time specified in the department order.

72.30(6) Performance bond. A performance bond may be required when necessary to secure the construction, operation, and maintenance of approved projects and activities in a manner that does not create a hazard to the public's health, welfare, and safety. The amount and conditions of such bond shall be specified as special conditions in the department order.

567—72.31(455B) Variance.

72.31(1) In general. Where evidence is presented that additional private or significant public damage will not result from flood plain or floodway construction (other than channel changes) subject to regulation under Chapters 70 to 72 of these rules, the department may permit variance to the criteria stated in Chapter 72.

72.31(2) Channel change variances. The department may grant variances to the criteria stated in this chapter for channel changes (other than channel changes on protected streams) only in the following instances: (a) For comprehensive flood control projects in urban areas where channelization is the best alternative available; (b) for public projects such as roads or road grade protection where a channel change is the only reasonable and practicable alternative; (c) in cases whereby natural channel erosion has significant probability of eroding the structural stability of a building or other structure and bank erosion control measures are not feasible or practical under the circumstances; (d) in other cases where the applicant can clearly show that there are no adverse effects on the public interest.

72.31(3) Protected stream channel change variance. The department may grant variances to the prohibition of channel changes on protected streams for those cases listed in 72.31(2) "b" and "c," but such variances will be with provisions for mitigation of environmental damage.

567—72.32 to 72.49 Reserved.

DIVISION III
PROTECTED STREAM DESIGNATION PROCEDURE

567—72.50(455B) Protected streams.

72.50(1) Protected streams defined. Protected streams shall include: All streams listed in 72.50(1); and other streams designated as protected streams pursuant to the procedures of 72.51(455B), which upon designation will be listed in 72.50(2).

***72.50(2) List of protected streams.** Streams designated as protected streams are the following:

ADAIR COUNTY

Middle River, east county line to confluence with unnamed creek (NE 1/4, S36, T76N, R30W, Adair Co.);

ALLAMAKEE COUNTY

Bear Creek, mouth (S1, T100N, R5W, Allamakee Co.) to west county line;
 Clear Creek, mouth (S29, T99N, R3W, Allamakee Co.) to north line of S15, T100N, R5W;
 Clear Creek, mouth (S35, T99N, R3W, Allamakee Co.) to west line of S25, T99N, R4W;
 Cota Creek, mouth to west line of S10, T97N, R3W;
 Dousman Creek, mouth (S33, T96N, R3W, Allamakee Co.) to south county line;
 French Creek, mouth to east line of S23, T99N, R5W;
 Hickory Creek, mouth to south line of S28, T96N, R5W;
 Irish Hollow Creek, mouth to north line of S17, T100N, R4W;
 Little Paint Creek, mouth to north line of S30, T97N, R3W;
 Norfolk Creek, mouth to confluence with Teeple Creek (S24, T97N, R6W);
 Paint Creek (a.k.a. Pine Creek), mouth (S9, T99N, R6W, Allamakee Co.) to west county line;
 Paint Creek, mouth (S15, T96N, R3W, Allamakee Co.) to road crossing S18, T97N, R4W;
 Patterson Creek, mouth to east line of S3, T98N, R6W;
 Silver Creek, mouth to south line of S31, T99N, R5W;
 Suttle Creek, mouth (S17, T96N, R4W, Allamakee Co.) to south county line;
 Teeple Creek, mouth to north line of S11, T97N, R6W;
 Trout Run, mouth in S16, T98N, R4W through one mile reach;
 Unnamed tributary to Village Creek (a.k.a. Erickson Spring Branch), mouth to west line of S23, T98N, R4W;
 Unnamed tributary to the Yellow River (a.k.a. Bear Creek), mouth to north line of S12, T96N, R5W;
 Upper Iowa River, from Lane's Bridge at river mile 6 to west county line;
 Village Creek, mouth to west line of S19, T98N, R4W;
 Waterloo Creek, mouth (S35, T100N, R6W) to north county line;
 Wexford Creek, mouth to west line of S25, T98N, R3W;
 Yellow River, mouth to west county line;

APPANOOSE COUNTY

Chariton River, Highway 2 (S27, T69N, R17W, Appanoose Co.) to Rathbun Lake Dam (S35, T70N, R18W, Appanoose Co.);

BENTON COUNTY

Bear Creek, east county line to confluence with Opossum Creek (S 5/8, T84N, R9W, Benton Co.);

Bear Creek, mouth (S21, T86N, R10W, Benton Co.) to confluence with unnamed creek (NE 1/4, NE 1/4, S2, T86N, R10W, Benton Co.);
 Cedar River, east county line to north county line;
 Iowa River, south county line to west county line;
 Lime Creek, mouth (S4, T86N, R10W, Benton Co.) to north county line;
 Prairie Creek, mouth (S10, T85N, R10W, Benton Co.) to confluence with unnamed creek (S36, T86N, R10W, Benton Co.);
 Salt Creek, mouth (S31, T82N, R12W, Benton Co.) to west county line;
 Wild Cat Creek, mouth (S8, T84N, R9W, Benton Co.) to confluence with unnamed creek (W 1/2, S33, T84N, R10W, Benton Co.);
 Wolf Creek, north county line to west county line;

BLACK HAWK COUNTY

Black Hawk Creek, mouth (S22, T89N, R13W, Black Hawk Co.) to west county line;
 Cedar River, east county line to north county line;
 Crane Creek, mouth (S26, T90N, R11W, Black Hawk Co.) to confluence with unnamed creek (S3, T90N, R12W, Black Hawk Co.);
 Shell Rock River, mouth (S4, T90N, R14W, Black Hawk Co.) to north county line;
 Wapsipinicon River, east county line to north county line;
 West Fork Cedar River, mouth (S10, T90N, R14W, Black Hawk Co.) to west county line;
 Wolf Creek, mouth (S19, T87N, R11W, Black Hawk Co.) to south county line;

BOONE COUNTY

Big Creek, south county line to confluence with unnamed creek (NW 1/4, S34, T82N, R25W, Boone Co.);
 Boone Co.);
 Bluff Creek, mouth (S22, T84N, R27W, Boone Co.) to Don Williams Lake Outlet (S5, T84N, R27W, Boone Co.);
 Des Moines River, south county line to north county line;

BREMER COUNTY

Cedar River, south county line to north county line;
 Shell Rock River, south county line to west county line;
 Wapsipinicon River, south county line to north county line;

BUCHANAN COUNTY

Cedar River, south county line to west county line;
 Lime Creek, south county line to confluence with unnamed creek (S1, T87N, R10W, Buchanan Co.);
 South Fork Maquoketa River, east county line to confluence with major unnamed creek (S4, T90N, R7W, Buchanan Co.);
 Wapsipinicon River, south county line to west county line;

BUENA VISTA COUNTY

Little Sioux River, north county line to north county line (entire length in county);
 North Raccoon River, south county line to the north line of the NW 1/4, SE 1/4, S12, T90N, R36W, Buena Vista Co.;

BUTLER COUNTY

Shell Rock River, east county line to north county line;
 West Fork Cedar River, east county line to west county line;

CALHOUN COUNTY

Camp Creek, mouth (S7, T86N, R34W, Calhoun Co.) to confluence with unnamed creek (NE 1/4, NE 1/4, S33, T87N, R34W, Calhoun Co.);
 Cedar Creek, south county line to confluence with unnamed creek (S 1/2, S34, T86N, R32W, Calhoun Co.);
 Lake Creek, mouth (S23, T86N, R34W, Calhoun Co.) to confluence with D.D. 13 (S33, T88N, R32W, Calhoun Co.);
 North Raccoon River, south county line to west county line;

CARROLL COUNTY

Middle Raccoon River, south county line to confluence with unnamed creek (SE 1/4, S15, T84N, R35W, Carroll Co.);

North Raccoon River, east county line to north county line;

CEDAR COUNTY

Cedar River, south county line to west county line;

Rock Creek, mouth (S2, T79N, R3W, Cedar Co.) to confluence with West Rock Creek (S11, T81N, R3W, Cedar Co.);

Sugar Creek, south county line to confluence with unnamed creek (S35, T80N, R2W, Cedar Co.);

Wapsipinicon River, east county line to north county line;

CERRO GORDO COUNTY

Beaverdam Creek, south county line to confluence with unnamed creek (S12, T95N, R22W, Cerro Gordo Co.);

Shell Rock River, east county line to north county line;

Spring Creek, mouth (S28, T97N, R20W, Cerro Gordo Co.) to confluence with Blair Creek (S9, T97N, R20W, Cerro Gordo Co.);

Willow Creek, mouth (S3, T96N, R20W, Cerro Gordo Co.) to confluence with Clear Creek (S16, T96N, R21W, Cerro Gordo Co.);

Winnebago River, east county line to west county line (entire length in county);

CHEROKEE COUNTY

Little Sioux River, south county line to north county line;

Maple River, south county line to confluence with unnamed creek (N 1/2, S29, T91N, R39W, Cherokee Co.);

Mill Creek, confluence with Willow Creek (S1, T93N, R41W, Cherokee Co.) to north county line;

CHICKASAW COUNTY

Cedar River, south county line to west county line;

Crane Creek, east county line to confluence with unnamed creek (NE 1/4, S25, T95N, R11W, Chickasaw Co.);

Little Cedar River, mouth (S20, T94N, R14W, Chickasaw Co.) to west county line;

Wapsipinicon River, south county line to north county line;

CLAY COUNTY

Little Sioux River, west county line to north county line (entire length in county);

Lost Island Outlet, mouth (S35, T96N, R36W, Clay Co.) to County Road M 54 (S24, T96N, R36W, Clay Co.);

Muddy Creek, mouth (S15, T96N, R36W, Clay Co.) to County Road B 17 (north line, S23, T97N, R36W, Clay Co.);

Ocheyedan River, mouth (S13, T96N, R37W, Clay Co.) to confluence with Stoney Creek (S7, T96N, R37W, Clay Co.);

Prairie Creek, mouth (S26, T96N, R36W, Clay Co.) to confluence with unnamed creek (SE 1/4, S35, T96N, R37W, Clay Co.);

Stoney Creek, mouth (S7, T96N, R37W, Clay Co.) to Highway 18 (S31, T96N, R37W, Clay Co.);

CLAYTON COUNTY

Bear Creek, mouth (S34, T92N, R4W, Clayton Co.) to west line of S23, T91N, R5W, Clayton Co.;

Bloody Run, mouth (S15, T95N, R3W) to source at Spook Cave;

Bloody Run Creek (a.k.a. Grimes Hollow), mouth (S36, T91N, R3W) to south county line;

Brownfield Creek, mouth to spring source (S31, T91N, R3W);

Buck Creek, mouth to west line of S9, T93N, R3W;

Cox Creek, mouth (S21, T92N, R5W, Clayton Co.) to south line S12, T91N, R6W, Clayton Co.;

Dry Mill Creek, mouth to west line of S9, T93N, R4W;

Elk Creek, mouth (S36, T92N, R4W, Clayton Co.) to south county line;

Ensign Creek, mouth (S28, T92N, R6W, Clayton Co.) to spring source (S29, T92N, R6W, Clayton Co.);

Hewett Creek, mouth to south line of S29, T92N, R6W;

Kleinlein Creek (a.k.a. Spring Creek), mouth to spring source (S10, T91N, R6W);

Maquoketa River, south county line to west county line;

Miners Creek, mouth to west line of S1, T92N, R3W;

Mink Creek, mouth (S30, T93N, R6W) to west county line;

Mossey Glen Creek, mouth (S3, T91N, R5W) to south line of S10, T91N, R5W, Clayton Co.;

North Cedar Creek, mouth (S8, T94N, R3W) to source;

Pecks Creek, mouth to south line of S15, T91N, R3W;
Pine Creek, mouth (S26, T91N, R4W) to confluence with Brownfield Creek (S25, T91N, R4W);

Point Hollow Creek (a.k.a. White Pine Creek), mouth (S31, T91N, R2W) to south county line;

Roberts Creek, mouth (S25, T93N, R5W, Clayton Co.) to confluence with unnamed creek (SE 1/4, S15, T95N, R6W, Clayton Co.);

Sny Magill Creek (a.k.a. Magill Creek), mouth to source;

South Cedar Creek (a.k.a. Cedar Creek), mouth (S33, T92N, R3W, Clayton Co.) to north line of S30, T93N, R4W, Clayton Co.;

Steeles Branch, mouth (S26, T91N, R4W) to south line S32, T91N, R4W, Clayton Co. (entire length in county);

Turkey River, confluence with Volga River to west county line;

Unnamed Tributary to Sny Magill Creek (a.k.a. West Fork Sny Magill Creek), mouth (S7, T94N, R3W) to west line of S7, T94N, R3W;

Volga River, mouth (S26, T92N, R4W, Clayton Co.) to west county line;

CLINTON COUNTY

Elk River, mouth (S20, T83N, R7E, Clinton Co.) to confluence with North Branch Elk River (S10, T83N, R6E, Clinton Co.);

Wapsipinicon River, mouth (S13, T80N, R5E, Clinton Co.) to west county line (entire length in county);

CRAWFORD COUNTY

Boyer River, south county line to north county line;

DALLAS COUNTY

Des Moines River, east county line to north county line (entire length in county);

Middle Raccoon River, mouth (S9, T78N, R29W, Dallas Co.) to west county line (entire length in county);

North Raccoon River, mouth (S21, T78N, R27W, Dallas Co.) to north county line (S5, T81N, R29W, Dallas Co.) (entire length in county);

Raccoon River, east county line to confluence with North Raccoon River (S21, T78N, R27W, Dallas Co.);

DAVIS COUNTY

Des Moines River, east county line to north county line (entire length in county);

DECATUR COUNTY

Thompson River, Highway 69 (S35, T68N, R26W, Decatur Co.) to west county line;

DELAWARE COUNTY

Bloody Run Creek (a.k.a. Grimes Hollow), north county line to spring source (S3, T90N, R3W);

Coffins Creek, mouth (S19, T89N, R5W, Delaware Co.) to confluence with Prairie Creek (S29, T89N, R6W, Delaware Co.);

Elk Creek, north county line to confluence with unnamed creek (center, S13, T90N, R4W, Delaware Co.);

Fenichel Creek, mouth (S5, T90N, R6W) to Richmond Springs (center of S4, T90N, R6W);

Fountain Spring Creek (a.k.a. Odell Branch), mouth (SE 1/4, S10, T90N, R4W) to confluence with South Branch Fountain Spring Creek (SE 1/4, S16, T90N, R4W);

Little Turkey River, north county line to south line of S11, T90N, R3W;

Maquoketa River, south county line to north county line;

Sand Creek, mouth (S9, T88N, R5W, Delaware Co.) to confluence with major unnamed creek (SW 1/4, S11, T88N, R6W, Delaware Co.);

Schechtman Branch, mouth to south line of S14, T90N, R4W;

South Branch Fountain Spring Creek, mouth (S16, T90N, R4W) to spring source (S16, T90N, R4W);

South Fork Maquoketa River, mouth (S16, T90N, R6W, Delaware Co.) to west county line;

Spring Branch, mouth (S10, T88N, R5W) to major spring source, north of Highway 20 (S35, T89N, R5W, Delaware Co.);

Steeles Branch, north county line to west line of S5, T90N, R4W, Delaware Co. (entire length in county between S4, T90N, R4W and west line of S5, T90N, R4W);

Twin Springs Creek, mouth (S2, T90N, R4W) to spring source (S12, T90N, R4W);

DES MOINES COUNTY

Cedar Creek, mouth (S1, T69N, R5W, Des Moines Co.) to Geode Lake Dam;

Cedar Creek, west county line to confluence with unnamed creek (S18, T70N, R4W, Des Moines Co.);

Flint Creek, mouth (S28, T70N, R2W, Des Moines Co.) to confluence with unnamed creek (NW 1/4, S21, T71N, R4W, Des Moines Co.);

Skunk River, mouth (S8, T68N, R2W, Des Moines Co.) to east county line (entire length in county);

DICKINSON COUNTY

Little Sioux River, south county line to confluence with West Fork Little Sioux River (S7, T99N, R37W, Dickinson Co.);

DUBUQUE COUNTY

Bloody Run, mouth (S34, T90N, R2E) to west line of S21, T90N, R2E;

Catfish Creek, mouth (S5, T88N, R3E, Dubuque Co.) to source;

Cloie Branch, mouth (S5, T89N, R2E) to west line of S5, T89N, R2E;

Hogans Branch, mouth (S35, T89N, R1W) to west line of S9, T88N, R1W;

Little Maquoketa River, mouth (S26, T90N, R2E, Dubuque Co.) to north line of NE 1/4, S5, T88N, R1W, Dubuque Co.;

Middle Fork Little Maquoketa River, west line of S31, T90N, R1E to north line of S33, T90N, R1W;

Point Hollow Creek (a.k.a. White Pine Creek), north county line to spring source (S8, T90N, R2W);

Tete des Morts Creek (a.k.a. Tete des Morts River), mouth (S34 T88N, R4E, Dubuque Co.) to south county line (S34, T88N, R4E, Dubuque Co.);

EMMET COUNTY

Brown Creek, mouth (S24, T99N, R34W, Emmet Co.) to Highway 9 (S13, T99N, R34W, Emmet Co.);

Des Moines River, south county line to north county line;

East Fork Des Moines River, east county line to Tuttle Lake Outlet (S13, T100N, R32W, Emmet Co.);

FAYETTE COUNTY

Bass Creek, mouth (S3, T95N, R9W) to west line of S3, T95N, R9W;

Bear Creek, mouth to west line of S6, T92N, R7W;
 Bell Creek, mouth (S10, T94N, R7W) to west line of S8, T94N, R7W;
 Brush Creek, mouth (S26, T93N, R7W, Fayette Co.) to east line of S17, T92N, R7W, Fayette

Co.;

Crane Creek, mouth (S31, T95N, R9W, Fayette Co.) to west county line;
 Grannis Creek, mouth (S30, T93N, R7W) to west line of S36, T93N, R8W, Fayette Co.;
 Little Turkey River, mouth (S18, T95N, R8W, Fayette Co.) to north county line;
 Maquoketa River, east county line to north line of S24, T91N, R7W;
 Mink Creek, east county line to west line of S15, T93N, R7W;
 North Branch Volga River, mouth (S33, T93N, R9W, Fayette Co.) to confluence with un-

named creek (S8, T93N, R9W, Fayette Co.);

Otter Creek, mouth to confluence with unnamed tributary (a.k.a. Glovers Creek) in S22, T94N, R8W;

Turkey River, east county line to north county line;

Unnamed tributary to Otter Creek (a.k.a. Glovers Creek), mouth (S22, T94N, R8W) to west line of S15, T94N, R8W;

Volga River, east county line to confluence with unnamed creek (NW 1/4, NE 1/4 of S24, T93N, R10W, Fayette Co.);

FLOYD COUNTY

Cedar River, east county line to north county line;

Little Cedar River, east county line to north county line;

Rock Creek, mouth (S24, T97N, R17W, Floyd Co.) to north county line (entire length in county);

Shell Rock River, south county line to west county line;

Winnebago River, mouth (S14, T95N, R18W, Floyd Co.) to west county line;

FRANKLIN COUNTY

Beaver Creek, east county line to road crossing (S28, T90N, R19W, Franklin Co.);

Beaverdam Creek, mouth (S19, T93N, R19W, Franklin Co.) to north county line;

Iowa River, south county line to west county line (entire length in county);

Maynes Creek, confluence with unnamed creek (S12, T91N, R19W, Franklin Co.) to confluence with unnamed creek (S30, T91N, R20W, Franklin Co.);

Otter Creek, mouth (S28, T92N, R19W, Franklin Co.) to County Road C 23 (north line of S31, T93N, R20W, Franklin Co.);

West Fork Cedar River, east county line to confluence with Beaverdam & Bailey Creeks (S19, T93N, R19W, Franklin Co.);

GREENE COUNTY

Cedar Creek, mouth (S33, T85N, R32W, Greene Co.) to north county line;

North Raccoon River, south county line to west county line (entire length in county);

GRUNDY COUNTY

Black Hawk Creek, east county line to confluence with Minnehaha Creek (S7, T87N, R16W, Grundy Co.);

Wolf Creek, east county line to confluence with unnamed creek (S32, T86N, R17W, Grundy Co.);

GUTHRIE COUNTY

Middle Raccoon River, Lake Panorama (S15, T80N, R31W, Guthrie Co.) to north county line;

Middle Raccoon River, east county line to Lake Panorama Outlet (S31, T80N, R30W, Guthrie Co.);

HAMILTON COUNTY

Boone River, west county line to north county line;

Des Moines River, west county line to west county line (entire length in county);

Eagle Creek, mouth (S6, T89N, R25W, Hamilton Co.) to north county line;

White Fox Creek, mouth (S33, T89N, R25W, Hamilton Co.) to north county line;

HANCOCK COUNTY

East Fork Iowa River, south county line to confluence with Galls Creek (S12, T95N, R24W, Hancock Co.);

West Fork Iowa River, south county line to County Road B 55 (north line of S31, T95N, R24W, Hancock Co.);

Winnnebago River, east county line to north county line (entire length in county);

HARDIN COUNTY

Iowa River, south county line to north county line;

School Creek, mouth (S28, T89N, R20W, Hardin Co.) to confluence with unnamed creek (S16, T89N, R20W, Hardin Co.);

South Fork Iowa River, mouth (S4, T86N, R19W, Hardin Co.) to Highway 359 (S11, T88N, R22W, Hardin Co.);

HENRY COUNTY

Cedar Creek, mouth (S9, T71N, R7W, Henry Co.) to west county line (entire length in county);

Cedar Creek, upper extent of Geode Lake (S25, T70N, R5W, Henry Co.) to east county line;

Crooked Creek, west county line to north county line;

Skunk River, south county line to west county line (NW 1/4, S30, T73N, R7W, Henry Co.) (entire length in Henry Co.);

HOWARD COUNTY

Beaver Creek, mouth to south line of S29, T100N, R13W;

Bohemian Creek, east county line to west line of S2, T97N, R11W;

Chialk Creek, mouth (S1, T98N, R11W, Howard Co.) to north line S36, T99N, R11W, Howard Co.;

Nichols Creek (a.k.a. Bigalks Creek), east county line to west line of S23, T100N, R11W;

Staff Creek, mouth to west line of S27, T100N, R14W;

Turkey River, from east county line to confluence with South Branch Turkey River (S2, T98N, R12W, Howard Co.);

Upper Iowa River, all of the river located in Howard County;

Wapsipinicon River, south county line to west county line;

HUMBOLDT COUNTY

Des Moines River, south county line to north line S7, T92N, R30W, Humboldt Co.;

East Fork Des Moines River, mouth (S19, T91N, R28W, Humboldt Co.) to north county line;

IDA COUNTY

Little Sioux River, west county line to north county line;

Maple River, west county line to north county line;

IOWA COUNTY

Iowa River, east county line to north county line;

JACKSON COUNTY

Brush Creek, north line of S23, T85N, R3E to north line of S1, T85N, R3E;

Cedar Creek, mouth (S30, T85N, R3E) to east line of S29, T85N, R3E;

Little Mill Creek, mouth to west line of S29, T86N, R4E;

Maquoketa River, mouth (S7, T85N, R6E, Jackson Co.) to west county line (entire length in county);

Mill Creek, mouth (S18, T86N, R5E, Jackson Co.) to confluence with unnamed creek (S1, T86N, R3E, Jackson Co.);

Mineral Creek, mouth (S32, T85N, R1E, Jackson Co.) to west county line;

Ozark Spring Run, mouth (S32, T86N, R1E) to spring source in center of S32, T86N, R1E;

Pleasant Creek (a.k.a. Springbrook), confluence with unnamed creek (E 1/2, S11, T85N, R4E, Jackson Co.) to west line S15, T85N, R4E, Jackson Co.;

South Fork Big Mill Creek, mouth (S8, T86N, R4E, Jackson Co.) to west line S17, T86N, R4E, Jackson Co.;

Storybrook Hollow, mouth (S7, T86N, R4E, Jackson Co.) to south line S12, T86N, R3E, Jackson Co.;

Tete des Morts Creek (a.k.a. Tete des Morts River), north county line (S3, T87N, R4E, Jackson Co.) to confluence with unnamed creek (NW 1/4, S4, T87N, R3E, Jackson Co.);

Unnamed Creek, mouth (S1, T86N, R3E, Jackson Co.) to west line S1, T86N, R3E, Jackson Co.;

Unnamed tributary to Lytle Creek, mouth (S7, T86N, R2E) to west line of S11, T86N, R1E;

JEFFERSON COUNTY

Crooked Creek, mouth (S1, T73N, R8W, Jefferson Co.) to east county line;

Skunk River, east county line (east line, S13, T72N, R8W, Jefferson Co.) to north county line (north line, S1, T73N, R8W, Jefferson Co.)(entire length in Jefferson Co.);

JOHNSON COUNTY

Cedar River, east county line to north county line;

Clear Creek, Interstate 380 (S34, T80N, R7W, Johnson Co.) to confluence with unnamed creek (S29, T80N, R8W, Johnson Co.);

Iowa River, south county line (south line, S32, T77N, R5W, Johnson Co.) to Coralville Dam (S22, T80N, R6W, Johnson Co.);

North Branch Old Mans Creek, mouth (S31, T79N, R7W, Johnson Co.) to north line S23, T79N, R8W, Johnson Co.;

JONES COUNTY

Buffalo Creek, mouth (S10, T84N, R4W, Jones Co.) to west county line;

Maquoketa River, east county line to north county line (entire length in county);

Mineral Creek, east county line to west line S29, T85N, R1W, Jones Co.;

Wapsipinicon River, south county line to west county line;

KEOKUK COUNTY

North Skunk River, mouth (S5, T74N, R10W, Keokuk Co.) to west county line;

Skunk River, east county line to confluence with North & South Skunk Rivers (S5, T74N, R10W, Keokuk Co.);

South English River, east county line to confluence with unnamed creek (S6, T77N, R13W, Keokuk Co.);

South Skunk River, mouth (S5, T74N, R10W, Keokuk Co.) to confluence with Olive Branch Creek (S30, T75N, R13W, Keokuk Co.);

KOSSUTH COUNTY

Buffalo Creek, mouth (S20, T97N, R28W, Kossuth Co.) to confluence with North Buffalo Creek (S4, T97N, R27W, Kossuth Co.);

East Fork Des Moines River, south county line to west county line;

LEE COUNTY

Des Moines River, mouth (S34 T65N, R5W, Lee Co.) to west county line (entire length in county);

Skunk River, mouth (S8, T68N, R2W, Lee Co.) to north county line (entire length in county);

LINN COUNTY

Bear Creek, mouth (S21, T84N, R8W, Linn Co.) to west county line;

Buffalo Creek, east county line to Highway 13 (S10, T86N, R6W, Linn Co.);

Cedar River, south county line to west county line;

East Otter Creek, confluence with Otter Creek (S7, T84N, R7W, Linn Co.) to confluence with unnamed creek (S 1/2, S28, T85N, R7W, Linn Co.);

Wapsipinicon River, east county line to north county line;

LOUISA COUNTY

Cedar River, mouth (S20, T75N, R4W, Louisa Co.) to north county line;

Iowa River, mouth to north county line (NW 1/4, S6, T76N, R5W, Louisa Co.) (entire length in county);

Long Creek, mouth (S1, T74N, R4W, Louisa Co.) to west county line;

LUCAS COUNTY

Chariton River, Rathbun Lake (S34, T71N, R20W, Lucas Co.) to Highway 14 (S31, T72N, R21W, Lucas Co.);

White Breast Creek, north county line to confluence with unnamed creek (W 1/2, NW 1/4, S6, T71N, R23W, Lucas Co.);

Wolf Creek, mouth (S15, T71N, R21W, Lucas Co.) to confluence with unnamed creek (NE 1/4, S36, T71N, R22W, Lucas Co.);

LYON COUNTY

Big Sioux River, south county line to north county line;

Little Rock River, mouth (S35, T98N, R46W, Lyon Co.) to confluence with unnamed creek (S10, T98N, R44W, Lyon Co.);

Otter Creek, mouth (S21, T98N, R44W, Lyon Co.) to south county line;

Rock River, south county line to north county line;

MADISON COUNTY

Middle River, east county line to west county line;

Thompson River, south county line to confluence with unnamed creek (NW 1/4, S7, T74N, R29W, Madison Co.);

MAHASKA COUNTY

Des Moines River, south county line to west county line (entire length in county);

North Skunk River, east county line to north county line;

MARION COUNTY

Des Moines River, east county line to west county line (entire length in county);

White Breast Creek, mouth to west county line;

MARSHALL COUNTY

Iowa River, east county line to Marshalltown Center St. Dam (S26, T84N, R18W, Marshall Co.);

Iowa River, confluence with Dowd Creek (S2, T85N, R19W, Marshall Co.) to north county line;

Minerva Creek, mouth (S2, T84N, R19W, Marshall Co.) to confluence with major unnamed creek (NW 1/4, S9, T85N, R20W, Marshall Co.);

Wolf Creek, north county line to north county line (S2, T85N, R17W, Marshall Co.) (entire length in county);

MITCHELL COUNTY

Beaver Creek, mouth to north line of S19, T99N, R15W;

Burr Oak Creek, mouth (S12, T98N, R16W, Mitchell Co.) to north line of S5, T98N, R16W, Mitchell Co.;

Cedar River, south county line to north county line;

Deer Creek, mouth (S23, T99N, R18W, Mitchell Co.) to west county line;

Little Cedar River, south county line to north county line;

Rock Creek, south county line (S14, T97N, R17W, Mitchell Co.) to north line of S26, T98N, R18W, Mitchell Co. (entire length in county between south line of S14, T97N, R17W and north line of S26, T98N, R18W);

Spring Creek, mouth to north line of S8, T97N, R16W;

Turtle Creek, mouth to east line of S7, T99N, R17W;

Wapsipicon River, east county line to north line of S20, T100N, R15W;

MONONA COUNTY

Maple River, south line (S34, T85N, R43W, Monona Co.) to north county line;

MONROE COUNTY

Des Moines River, east county line to north county line (entire length in county);

MUSCATINE COUNTY

Cedar River, south county line to north county line;

Pine Creek, mouth (S21, T77N, R1E, Muscatine Co.) to confluence with unnamed creek (S26, T78N, R1W, Muscatine Co.);

Sugar Creek, mouth (S17, T78N, R2W, Muscatine Co.) to north county line;

O'BRIEN COUNTY

Little Sioux River, south county line to east county line;

Mill Creek, south county line to confluence with unnamed creek (NE 1/4, S9, T95N, R41W, O'Brien Co.);

PLYMOUTH COUNTY

Big Sioux River, south county line to north county line;

POLK COUNTY

Big Creek, upper extent of Big Creek Lake (S9, T81N, R25W, Polk Co.) to north county line;

Des Moines River, east county line to west county line (entire length in county);

Raccoon River, mouth (S10, T78N, R24W, Polk Co.) to west county line;

RINGGOLD COUNTY

Thompson River, east county line to north county line;

SAC COUNTY

Boyer River, south county line to confluence with unnamed creek (S6, T89N, R37W, Sac Co.);

Indian Creek, mouth (S24, T87N, R36W, Sac Co.) to north line (S20, T87N, R36W, Sac Co.);

North Raccoon River, east county line to north county line;

SCOTT COUNTY

Lost Creek, mouth (S15, T80N, R5E, Scott Co.) to confluence with unnamed creek (NW 1/4, S7, T79N, R5E, Scott Co.);

Wapsipinicon River, mouth (S13, T80N, R5E, Scott Co.) to north county line (NE 1/4, S1, T80N, R1E, Scott Co.) (entire length in county);

SIOUX COUNTY

Big Sioux River, south county line to north county line;

Rock River, mouth (S1, T95N, R48W, Sioux Co.) to north county line;

STORY COUNTY

South Skunk River, confluence with Squaw Creek (S12, T83N, R24W, Story Co.) to north county line;

TAMA COUNTY

Iowa River, east county line to west county line;

Raven Creek, mouth (S25, T83N, R16W, Tama Co.) to confluence with unnamed creek (S6, T82N, R16W, Tama Co.);

Salt Creek, east county line to confluence with South Branch Salt Creek (S29, T84N, R13W, Tama Co.);

UNION COUNTY

Thompson River, south county line to north county line;

Twelve Mile Creek, mouth (S36, T71N, R28W, Union Co.) to Twelve Mile Lake Dam (S12, T72N, R30W, Union Co.);

VAN BUREN COUNTY

Cedar Creek, east county line (SE 1/4, S12, T70N, R8W) to east county line (NE 1/4, S12, T70N, R8W);

Des Moines River, south county line to west county line (entire length in county);

WAPELLO COUNTY

Des Moines River, south county line to west county line (entire length in county);

South Avery Creek, mouth (S31, T73N, R14W, Wapello Co.) to west county line;

WARREN COUNTY

Des Moines River, east county line to north county line (entire length in county);

Middle River, confluence with Clanton Creek (S28, T76N, R25W, Warren Co.) to west county line;

White Breast Creek, east county line to south county line;

WASHINGTON COUNTY

Crooked Creek, south county line to confluence with East and West Fork Crooked Creeks (S24, T74N, R7W, Washington Co.);

English River, mouth (S11, T77N, R6W, Washington Co.) to confluence with South English River (S6, T77N, R9W, Washington Co.);

Iowa River, east county line (east line, S36, T77N, R6W, Washington Co.) to north county line (north line, S2, T77N, R6W, Washington Co.) (entire length in Washington Co.);

Long Creek, east county line to confluence with South Fork Long Creek (S26, T75N, R6W, Washington Co.);

Skunk River, south county line (SE 1/4, S36, T74N, R8W, Washington Co.) to west county line (SW 1/4, S6, T74N, R9W, Washington Co.) (entire length in county);

South English River, mouth (S6, T77N, R9W, Washington Co.) to west county line;

WEBSTER COUNTY

Boone River, mouth (S36, T87N, R27W, Webster Co.) to east county line;

Brushy Creek, west line (S16, T88N, R27W, Webster Co.) to confluence with unnamed creek (S8, T88N, R27W, Webster Co.);

Brushy Creek, mouth (S15, T87N, R27W, Webster Co.) to south line S34, T88N, R27W, Webster Co.;

Deer Creek, mouth (S24, T90N, R29W, Webster Co.) to north line S16, T90N, R29W, Webster Co.;

Des Moines River, south county line to north county line (entire length in county);

Lizard Creek, mouth (S19, T89N, R28W, Webster Co.) to confluence with D.D. #3 (S35, T90N, R30W, Webster Co.);

South Branch Lizard Creek, mouth (S23, T89N, R29W, Webster Co.) to west line S32, T89N, R29W, Webster Co.;

WINNEBAGO COUNTY

Winnebago River, south county line to north county line;

WINNESHIEK COUNTY

Bear Creek (a.k.a. South Bear Creek), east county line to source (a.k.a. Mestad Springs, S29, T100N, R7W);

Bohemian Creek, mouth to west county line;

Canoe Creek, mouth (S25, T99N, R7W, Winneshiek Co.) to west line of S8, T99N, R8W, Winneshiek Co.;

Coon Creek, mouth to road crossing in NW 1/4, S13, T98N, R7W;

Dry Run, mouth to west line of S36, T98N, R9W;

East Pine Creek, mouth (S28, T100N, R9W) to north county line (S10, T100N, R9W);

Martha Creek, mouth to west line of S13, T99N, R10W;

Middle Bear Creek, mouth to north line of S16, T100N, R7W;

Nichols Creek (a.k.a. Bigalk Creek), mouth to west county line;

North Bear Creek, mouth to north county line;

North Canoe Creek, mouth to north line of S2, T99N, R8W;

Paint Creek (a.k.a. Pine Creek), east county line to confluence with unnamed creek (SE 1/4, S11, T99N, R7W, Winneshiek Co.);

Pine Creek, mouth (S10, T99N, R9W) to north county line;

Pine Creek, mouth (S26, T99N, R7W) to north line of S21, T99N, R7W;

Silver Creek, mouth to north line of S26, T100N, R9W;

Smith Creek (a.k.a. Trout River), mouth (S21, T98N, R7W) to south line of S33, T98N, R7W;

Ten Mile Creek, mouth to confluence with Walnut Creek (S18, T98N, R9W);

Trout Creek, mouth (S9, T98N, R7W) to confluence with Smith Creek (S21, T98N, R7W);

Trout Creek, mouth (S23, T98N, R8W) to confluence with unnamed tributary (a.k.a. Trout Run) in S27, T98N, R8W;

Turkey River, south county line to west county line;

Twin Springs Creek, mouth (S17, T98N, R8W) through one half mile reach;

Unnamed Creek, mouth (SE 1/4, S11, T99N, R7W, Winneshiek Co.) to North line S12, T99N, R7W, Winneshiek Co.;

Unnamed tributary to Trout Creek (a.k.a. Trout Run), mouth to south line of S27, T98N, R8W;

Unnamed tributary to Upper Iowa River (a.k.a. Casey Springs Creek), mouth (S25, T99N, R9W) to west line of S26, T99N, R9W;

Unnamed tributary to Upper Iowa River (a.k.a. Coldwater Creek), mouth (S32, T100N, R9W) to north county line;

Upper Iowa River, east county line to west county line;

Yellow River, east county line to confluence with North Fork Yellow River (S13, T96N, R7W);

WOODBURY COUNTY

Little Sioux River, confluence with Parnell Creek (S25, T86N, R44W, Woodbury Co.) to east county line;

Maple River, south county line to east county line;

WORTH COUNTY

Deer Creek, east county line to confluence with unnamed creek (East line, S28, T100N, R19W, Worth Co.);

Elk Creek, mouth (S27, T99N, R20W, Worth Co.) to Highway 105 (S5, T99N, R22W, Worth Co.);

Shell Rock River, south county line to north county line;

Winans Creek, mouth (S36, T98N, R22W, Worth Co.) to N/S road crossing (S 1/2, S25, T98N, R22W, Worth Co.);

Winnebago River, south county line (S32, T98N, R21W, Worth Co.) to south county line (S34, T98N, R22W, Worth Co.) (entire length in county);

WRIGHT COUNTY

Boone River, south county line to confluence with Middle Branch Boone River (S2, T93N, R26W, Wright Co.);

Eagle Creek, south county line to confluence with Drainage Ditch No. 9 (S30, T91N, R25W, Wright Co.);

East Fork Iowa River, mouth (S19, T93N, R23W, Wright Co.) to north county line;

Iowa River, east county line (S13, T90N, R23W, Wright Co.) to confluence with East and West Fork Iowa Rivers (S19, T93N, R23W, Wright Co.) (entire length in county);

West Fork Iowa River, mouth (S19, T93N, R23W, Wright Co.) to north county line;

White Fox Creek, south county line to confluence with unnamed creek (E 1/2, SE 1/4, S36, T91N, R25W, Wright Co.);

567—72.51(455B) Protected stream designation procedure.

72.51(1) Eligible petitioners. Any state agency, governmental subdivision, association or interested person may petition the commission, according to the rules of this division, to designate a stream as a protected stream. However, if the stream had been the subject of a similar petition filed within the past two years, the commission shall not accept a petition except upon a majority vote.

72.51(2) Content of petition. The petition for protected stream designation shall contain the following: (a) Names, addresses, and the phone numbers of the petitioners; (b) location of the stream nominated for designation; (c) reasons why the stream is nominated, each reason being stated in a separate numbered paragraph; and (d) adequate evidence supporting the reasons for nomination. Eleven copies of the petition shall be filed with the department.

72.51(3) Department review of petition. Upon receipt of a petition for designation of a stream as a protected stream, the department shall make an initial determination as to whether the petition complies with 72.51(2) and whether the stream has a sufficient number of environ-

mental amenities listed in 72.51(7) that further investigation is warranted. If the department finds the petition not in compliance with 72.51(7) or that further investigation is not warranted, agency proceedings to designate the nominated stream as protected shall cease and the petitioner shall be notified of the reasons for refusing to accept and act upon the petition. A petitioner aggrieved by the department's decision may appeal the decision within thirty (30) days to an executive committee of at least three commission members.

72.51(4) Notice of initiation of protected stream designation proceedings. Upon department acceptance of a petition nominating a stream for protected stream designation, the department shall do the following:

a. Notice of intended action. Publish a notice of intended action in the Iowa Administrative Bulletin, the content of which identifies the nominated stream and requests public input into the protected stream designation procedure.

b. Commission notification. Notify the commission at the next meeting of the filing of a petition for protected stream designation.

c. Interested agency notification. Notify regional planning commissions, county boards of supervisors, city councils, soil conservation districts through which the nominated stream runs, the fish and wildlife division of the department, the soil conservation division of the department of agriculture and land stewardship, the department of agriculture and land stewardship and the geological survey bureau of the department.

d. Countywide notification. Publish notice of the filing of the petition in a newspaper of general circulation for two consecutive weeks in each county in which the nominated stream is located.

72.51(5) Department investigation report. Upon department acceptance of a petition nominating a stream for protected stream designation, the department shall do the following:

a. Investigation. Supervise a field staff investigation of the stream nominated for protected stream status for the purpose of assessing the effect that extending department flood plain regulation would have on the factors listed in 72.51(7);

b. Report. File a report with the commission at a monthly commission meeting held within one (1) year after the notice of intended action was published; the report shall specifically state findings of fact or each reason alleged in the petition in support of a protected stream designation and convey a staff recommendation, including any minority recommendations and recommendations of other governmental bodies and interested persons on whether or not the stream should be regulated;

c. Interagency coordination. Invite the fish and wildlife division of the department, the geological survey bureau, and any other agency or governmental subdivision expressing an interest in the proceeding to participate in the field investigation and preparation of the report, and request their assessment of whether extension of department jurisdiction over the nominated stream would have either an adverse or beneficial impact on their agency's water resource programs.

72.51(6) Commission determination. After receipt of the director's report and the public has had an opportunity to submit written comments and make an oral presentation, the commission shall make a determination in writing whether or not to designate the stream identified in the petition as a protected stream, except that the commission may continue the proceeding as needed to collect or analyze additional data. The commission's determination shall be based on the factors listed in 72.51(7), as applied to the nominated stream and its flood plain and, to other relevant streams and flood plains located in the same watershed as the nominated stream, as well as any underground water system hydrologically connected to the nominated stream.

72.51(7) Basis for protected stream designation. Commission determination of whether or not to classify a stream as a protected stream shall be based on the balancing of the costs and

benefits of possible flood plain development as it would affect the following factors: (a) Maintenance of stream fishery capacity; (b) water quality preservation; (c) wildlife habitat preservation; (d) flood control; (e) flood plain management; (f) existing flood plain developments; (g) soil erosion control; (h) the needs of agriculture and industry; (i) the maintenance and enhancement of public recreational opportunities; (j) the public's health, welfare and safety; (k) compatibility with the state water plan; (l) property and water rights of landowners; (m) other factors relevant to the control, development, protection, allocation, and utilization of the nominated stream and water hydrologically connected to it.

***567—72.52(455B) Protected stream declassification procedure.** The procedure for removing a stream from the list of protected streams in 72.50(2) of these rules shall be the same as the rules for designation of a stream as a protected stream, except that all notices, investigations and reports shall be addressed to the issue of declassification.

These rules are intended to implement Iowa Code sections 455B.261, 455B.262, 455B.263, 455B.264 and 455B.275.

[Filed 10/9/75, Notice 8/25/75—published 10/20/75, effective 11/24/75]

[Filed 5/5/78, Notice 3/8/78; Amended Notice 4/19/78—published 5/31/78, effective 7/5/78]

[Filed 9/14/78, Notice 7/12/78—published 10/4/78, effective 11/8/78]

[Filed 11/13/78, Notice 9/20/78—published 11/29/78, effective 1/3/79]

[Filed emergency 11/5/80—published 11/26/80, effective 11/5/80]

[Filed 2/23/82, Notice 12/9/81—published 3/17/82, effective 4/21/82]

[Filed 2/24/82, Notice 11/11/81—published 3/17/82, effective 4/21/82]

[Filed 4/23/82, Notice 11/11/81—published 5/12/82, effective 6/16/82*]

[Filed 4/6/83, Notice 2/16/83—published 4/27/83, effective 6/30/83]

[Filed emergency 6/3/83—published 6/22/83, effective 7/1/83]

[Filed 12/2/83, Notices 6/22/83, 7/20/83—published 12/21/83, effective 1/25/84]

[Filed emergency 11/14/86—published 12/3/86, effective 12/3/86]

[Filed 2/1/91, Notice 11/14/90—published 2/20/91, effective 3/27/91]

[Filed 12/30/93, Notice 8/18/93—published 1/19/94, effective 2/23/94*]

Faint, illegible text covering the majority of the page, likely bleed-through from the reverse side of the document.

CHAPTER 19

SAND AND GRAVEL PERMITS

- 19.1(461A) Purpose
- 19.2(461A) Applicability
- 19.3(461A) Definitions
- 19.4(461A) Approval of exclusive and nonexclusive permits
- 19.5(461A) Application and permit procedures
- 19.6(461A) Reporting procedures
- 19.7(461A) Inspections
- 19.8(461A) Permit site

CHAPTER 20

MANUFACTURER'S CERTIFICATE OF ORIGIN

- 20.1(462A) Definitions
- 20.2(462A) Applicability
- 20.3(462A) Certificate of origin—content
- 20.4(462A) Procedure—manufacturer
- 20.5(462A) Procedure—dealer
- 20.6(462A) Procedure—purchaser
- 20.7(462A) Procedure—county recorder
- 20.8(462A) Vessel titling

TITLE III

ASSISTANCE PROGRAMS

CHAPTER 21

AGRICULTURAL LEASE PROGRAM

- 21.1(456A) Purpose
- 21.2(456A) Agricultural lease policy
- 21.3(456A) Definitions of terms used in this chapter
- 21.4(456A) Lease procedures
- 21.5(456A) Terms and conditions of the lease
- 21.6(456A) Termination of lease
- 21.7(456A) Payment of rent

CHAPTER 22

WILDLIFE HABITAT ON PRIVATE LANDS PROMOTION PROGRAM

- 22.1(456A,483A) Purpose
- 22.2(456A,483A) Authority
- 22.3(456A,483A) Project scope
- 22.4(456A,483A) Availability of funds
- 22.5(483A) Winter habitat areas
- 22.6(456A,483A) Shelterbelts
- 22.7(456A,483A) Cost reimbursement

CHAPTER 23

WILDLIFE HABITAT PROMOTION WITH LOCAL ENTITIES PROGRAM

- 23.1(483A) Purpose and definitions
- 23.2(483A) Availability of funds
- 23.3(483A) Eligibility
- 23.4(483A) Project limitations
- 23.5(483A) Eligibility for cost-sharing assistance
- 23.6(483A) Application for assistance
- 23.7(483A) Project review and selection
- 23.8(483A) Commission review
- 23.9(483A) Grant amendments
- 23.10(483A) Timely commencement of projects
- 23.11(483A) Project period
- 23.12(483A) Payments
- 23.13(483A) Record keeping and retention
- 23.14(483A) Penalties

CHAPTER 24

Reserved

CHAPTER 25

CERTIFICATION OF LAND AS NATIVE PRAIRIE OR WILDLIFE HABITAT

- 25.1(427) Purpose
- 25.2(427) Definitions
- 25.3(427) Restrictions
- 25.4(427) Maintenance
- 25.5(427) Certification
- 25.6(427) Application for exemption
- 25.7(427) Decertification

CHAPTER 26
RELOCATION ASSISTANCE

- 26.1(316) Definitions
- 26.2(316) Actual reasonable moving costs and related expenses
- 26.3(316) Replacement housing payments for homeowners
- 26.4(316) Replacement housing payments for tenants and certain others
- 26.5(316) Notice of relocation assistance advisory service
- 26.6(316) Preconstruction project certificate
- 26.7(316) Record of payment determinations and claims for benefits paid
- 26.8(316) Last resort housing

CHAPTER 27
LANDS AND WATERS CONSERVATION FUND PROGRAM

- 27.1(107) Purpose
- 27.2(107) Apportionment distribution
- 27.3(107) Eligibility requirements
- 27.4(107) Assistance ceiling
- 27.5(107) Grant application submission
- 27.6(107) Project review and selection
- 27.7(107) Public participation
- 27.8(107) Commission review
- 27.9(107) Federal review
- 27.10(107) Grant amendments
- 27.11(107) Timely commencement of projects
- 27.12(107) Project period
- 27.13(107) Reimbursements
- 27.14(107) Ineligible items
- 27.15(107) Record keeping and retention

CHAPTER 28
SNOWMOBILE AND ALL-TERRAIN VEHICLE REGISTRATION REVENUE COST-SHARE PROGRAM

- 28.1(321G) Purpose and intent
- 28.2(321G) Distribution of funds
- 28.3(321G) Administration of snowmobile fund allocation to sponsors
- 28.4(321G) Administration of all-terrain vehicle fund allocation to sponsors
- 28.5(321G) Use of funded items
- 28.6(321G) Disposal of equipment, facilities or property
- 28.7(321G) Record keeping
- 28.8(321G) Sponsors bonded

CHAPTER 29
Reserved

CHAPTER 30
WATER RECREATION ACCESS COST-SHARE PROGRAM

- 30.1(324) Purpose
- 30.2(324) Availability of funds
- 30.3(324) Eligibility of development projects
- 30.4(324) Eligibility of acquisition projects
- 30.5(324) Projects not eligible
- 30.6(324) Waiver of retroactivity
- 30.7(324) Establishing project priorities
- 30.8(324) Application procedures
- 30.9(324) Cost-sharing rates
- 30.10(324) Joint sponsorship
- 30.11(324) Control of project site
- 30.12(324) Project agreements
- 30.13(324) Reimbursement procedures

- 40.28(462A) Speed restrictions on Black Hawk Lake
- 40.29(462A) Speed restrictions on Brown's Lake
- 40.30(462A) Speed restrictions on Snyder Bend Lake
- 40.31(462A) East Okoboji, West Okoboji, Dickinson County—zoned areas
- 40.32(462A) Spirit Lake, Dickinson County
- 40.33(462A) Speed restrictions on the Mississippi River, Jackson County, at Spruce Creek County Park
- 40.34(462A) Speed restrictions on the Mississippi River, Jackson County, at the city of Sabula
- 40.35(462A) Speed restrictions on the Greene Impoundment of the Shell Rock River
- 40.36(462A) Zoning of the Iowa River, Iowa Falls, Hardin County
- 40.37(462A) Zoning of Crystal Lake

CHAPTER 41

BOATING NAVIGATION AIDS

- 41.1(462A) Definitions
- 41.2(462A) Waterway markers
- 41.3(462A) Authority to place markers
- 41.4(462A) Maintenance of waterway markers
- 41.5 and 41.6 Reserved
- 41.7(462A) Display of waterway markers
- 41.8(462A) Specifications for waterway markers
- 41.9(462A) Waterway marking devices
- 41.10(462A) The diver's flag

CHAPTER 42

BOATING ACCIDENT REPORTS

- 42.1(462A) Accident report
- 42.2(462A) Procedure
- 42.3(462A) Contents

CHAPTER 43

MOTORBOAT NOISE

- 43.1(462A) Definitions
- 43.2(462A) Sound level limitation
- 43.3(462A) Serviceability

CHAPTER 44

BOATING, SPECIAL EVENTS

- 44.1(462A) Registration exemption
- 44.2(462A) Sponsoring organizations

CHAPTER 45

BOAT MOTOR REGULATIONS

- 45.1(462A) Horsepower rating
- 45.2(462A) Alteration of horsepower rating
- 45.3(462A) Propulsion mechanism not in use
- 45.4(462A) Horsepower limitations on artificial lakes of 100 acres or less
- 45.5(462A) Artificial marshes

CHAPTERS 46 to 48

Reserved

CHAPTER 49

OPERATION OF MOTOR VEHICLES IN MEANDERED STREAMS, NAVIGABLE STREAMS AND TROUT STREAMS

- 49.1(462A) Purpose and intent
- 49.2(462A) Definitions
- 49.3(462A) Stream identification process
- 49.4(462A) Motor vehicle prohibition in meandered streams, trout streams and navigable streams
- 49.5(462A) Motor vehicle prohibition in meandered streams

CHAPTER 50

ALL-TERRAIN VEHICLES AND SNOWMOBILE ACCIDENT REPORTS AND REGISTRATION DISPLAY

- 50.1(321G) Accident report
- 50.2 to 50.4 Reserved
- 50.5(321G) Registration applied for card and proof of purchase
- 50.6 to 50.8 Reserved
- 50.9(321G) Procedure for placement of validation and expiration decal

TITLE V

MANAGEMENT AREAS AND PRACTICES

CHAPTER 51

GAME MANAGEMENT AREAS

- 51.1(481A) Definitions
- 51.2(481A) Jurisdiction
- 51.3(481A) Use of firearms
- 51.4(481A) Dogs prohibited—exception
- 51.5(481A) Use of blinds and decoys
- 51.6(481A) Trapping on game management areas
- 51.7(481A) Motor vehicle restrictions
- 51.8(481A) Employees exempt

CHAPTER 52

WILDLIFE REFUGES

- 52.1(481A) Established

CHAPTER 53

CONTROLLED HUNTING AREAS

- 53.1(481A) Definitions
- 53.2(481A) Waterfowl hunting on Forney Lake and Riverton Area
- 53.3(481A) Waterfowl hunting on Lake Odessa

CHAPTER 54

RESTRICTION ON REMOVAL OF PLANT LIFE

- 54.1(461A) Mushrooms and asparagus
- 54.2(461A) Fruit
- 54.3(461A) American ginseng

CHAPTER 55

NONPERMANENT STRUCTURES

- 55.1(461A) Ice fishing shelters

CHAPTERS 56 to 60

Reserved

TITLE VI

PARKS AND RECREATION AREAS

CHAPTER 61

STATE PARKS AND RECREATION AREAS

- 61.1(461A) Applicability
- 61.2(461A) Definitions
- 61.3(461A) Fees
- 61.4(461A) Procedures for registration and reservations
- 61.5(461A) Restrictions—area and use

- 61.6(461A) Certain conditions of public use applicable to specific parks and recreation areas
- 61.7(461A) Mines of Spain hunting, trapping and firearms use
- 61.8 to 61.20 Reserved
- 61.21(461A) After-hours fishing, exception to closing time
- 61.22(461A) Designated area for after-hours fishing
- 61.23(461A) Vessels prohibited
- 61.24(461A) Campground fishing

CHAPTER 62

STATE FOREST CAMPING

- 62.1(461A) Applicability
- 62.2(461A) Camping areas established and marked
- 62.3(461A) Camping restricted
- 62.4(461A) Firearm use prohibited
- 62.5(461A) Camping fees and registration
- 62.6(461A) Hours
- 62.7(461A) Extra vehicle parking
- 62.8(461A) Horses and pets
- 62.9(461A) Time limit
- 62.10(461A) Camping refused
- 62.11(461A) Noise

CHAPTER 63

KEG BEER RULES

- 63.1(461A,123) Purpose
- 63.2(461A,123) Applicability
- 63.3(461A,123) Definitions
- 63.4(461A,123) Prohibited areas
- 63.5(461A,123) Procedure
- 63.6(461A,123) Deposit disposition
- 63.7(461A,123) Responsibility agreement

CHAPTER 64

METAL DETECTORS USE IN STATE AREAS

- 64.1(461A) Definitions
- 64.2(461A) Use areas
- 64.3(461A) Prohibited operation
- 64.4(461A) Drained lakes
- 64.5(461A) Found items
- 64.6(461A) Lost item search by owner
- 64.7(461A) Tools used
- 64.8(461A) Digging limitations and restoration
- 64.9(461A) Disposal of litter

CHAPTER 65 FIREWORKS DISPLAYS— STATE PARKS AND RECREATION AREAS

- 65.1(461A) Entities eligible for permits
- 65.2(461A) Application procedure
- 65.3(461A) Fireworks display procedures

CHAPTER 66

SAYLORVILLE MULTIUSE TRAIL

- 66.1(481A,461A) Applicability
- 66.2(456A,481A) Wildlife refuge
- 66.3(481A) Hunting and trapping restrictions
- 66.4(461A) Area use restrictions

CHAPTER 67

DEVELOPMENT AND MANAGEMENT OF RECREATION TRAILS ON STATE LANDS

- 67.1(456A,461A) Applicability
- 67.2(456A,461A) Definitions
- 67.3(456A,461A) Purpose
- 67.4(456A,461A) Establishment of trails
- 67.5(456A,461A) Designation of recreation trails
- 67.6(456A,461A) Guidelines for trail location
- 67.7(456A,461A) Control of trail use
- 67.8(456A,461A) Use of designated trails
- 67.9(456A,461A) Existing trails

CHAPTERS 68 to 70

Reserved

TITLE VII FORESTRY

CHAPTER 71

NURSERY STOCK SALE TO THE PUBLIC

- 71.1(456A,461A) Purpose
- 71.2(456A,461A) Procedures
- 71.3(456A,461A) Nursery stock prices

CHAPTER 72

TIMBER BUYERS

- 72.1(456A) Definitions
- 72.2(456A) Applicability of rules
- 72.3(456A) Forms

CHAPTER 73
FOREST AND FRUIT-TREE
RESERVATIONS

- 73.1(456A,427C) Criteria for establishing and maintaining forest and fruit-tree reservations
- 73.2(456A,427C) County assessor's annual report on forest and fruit-tree reservations to the department of natural resources

CHAPTERS 74 and 75
Reserved

TITLE VIII
SEASONS, LIMITS, METHODS OF TAKE

CHAPTER 76
UNPROTECTED NONGAME

- 76.1(481A) Species

CHAPTER 77
ENDANGERED AND THREATENED
PLANTS AND ANIMALS

- 77.1(481B) Definitions
- 77.2(481B) Endangered, threatened, and special concern animals
- 77.3(481B) Endangered, threatened, and special concern plants
- 77.4(481B) Exemptions

CHAPTER 78
GINSENG HARVESTING AND SALE

- 78.1(456A) Definitions
- 78.2(456A) Season for legal harvest
- 78.3(456A) Ginseng permits
- 78.4(456A) Dealer's records
- 78.5(456A) Certification of shipments
- 78.6(456A) Inspection
- 78.7(456A) Restrictions

CHAPTER 79
Reserved

- CHAPTER 80
SALVAGE OF FISH AND GAME
- 80.1(481A) Salvage
 - 80.2(481A) Game killed by motor vehicle
 - 80.3(481A) Confiscated fish or game

- CHAPTER 81
FISHING REGULATIONS
- 81.1(481A) Seasons, territories, daily bag limits, possession limits, and length limits
 - 81.2(481A) Exceptions to seasons and limits, set in 81.1(481A)

CHAPTER 82
COMMERCIAL FISHING

- INLAND WATERS
- 82.1(482) Contract policy
- MISSISSIPPI AND MISSOURI RIVERS
- 82.2(482) Commercial taking

CHAPTER 83
SCUBA AND SKIN SPEARING OF
ROUGH FISH

- 83.1(481A) When permitted
- 83.2(481A) Prohibited areas
- 83.3(481A) Permitted equipment
- 83.4(481A) Prohibited equipment
- 83.5(481A) Diver's flag
- 83.6(481A) Employees exempt

- CHAPTER 84
PROMISCUOUS FISHING
- 84.1(481A) General

- CHAPTER 85
TROTTLINES
- 85.1(481A) Trotlines where permitted

- CHAPTER 86
TURTLES
- 86.1(481A,482) Taking

CHAPTER 10 FORFEITED PROPERTY

[Prior to 12/31/86, Conservation Commission[(290)], Ch 116]
[Prior to 9/21/88 Natural Resource Commission[(571)], Ch 8]

571—10.1(809) Purpose. The purpose of this chapter is to set forth the policy and procedures to be followed and the criteria to be utilized by the Iowa department of natural resources officers when they are determining the disposition of seized or forfeitable property.

571—10.2(809) Definitions.

"Department" means the Iowa department of natural resources.

"Director" means the director of the department.

"District supervisor" means a supervisor of the law enforcement bureau of the fish and wildlife division or of the parks bureau of the parks, recreation and preserves division of the department.

"Forfeitable property" means any of the following:

1. Property which is illegally possessed;
2. Property which has been used or is intended to be used to facilitate the commission of a criminal offense or to avoid detection or apprehension of a person committing a criminal offense;
3. Property which is acquired as or from the proceeds of a criminal offense;
4. Property offered or given to another as an inducement for the commission of a criminal offense.

"Officer" means any full-time conservation officer appointed by the director.

571—10.3(809) Jurisdiction. Forfeitable property may be seized by a conservation officer whenever and wherever the property is found within this state.

571—10.4(809) Supervisor approval. Conservation officers taking custody of forfeitable property or serving upon the person in possession of the property a notice of forfeiture shall contact a district supervisor if the conservation officer estimates the value of the property exceeds \$50.

571—10.5(809) Disposition of general property. Forfeited property may be sold at a department-administered annual public sale. Forfeited property may be used by the department. The director may give, sell or trade property to any other state agency or to any other agency within the state.

571—10.6(809) Disposition of weapons. All legal weapons will be sold at the department's annual sale or the director may transfer illegal or legal weapons to the department of public safety for disposal in accordance with Iowa Code sections 809.13 and 809.21.

571—10.7(809) Property destroyed. Forfeitable property of no value to the department, the possession of which is illegal, that poses an imminent danger to a person's health, safety, or welfare, or that poses a significant hazard to the state's natural resources may be destroyed.

571—10.8(809) Disposition of furs. Forfeitable furs not needed by the department will be offered to the licensed fur dealers in the form of direct sale, an auction or sealed bid process whenever the director determines the number and value of forfeited furs warrants such a process.

These rules are intended to implement Iowa Code chapter 809.

[Filed emergency 7/10/86—published 7/30/86, effective 7/10/86]

[Filed without Notice 12/12/86—published 12/31/86, effective 2/4/87]

[Filed 9/2/88, Notice 3/23/88—published 9/27/88, effective 10/26/88]

[Filed 10/14/88, Notice 8/24/88—published 11/2/88, effective 12/7/88]

[Filed 2/11/94, Notice 12/22/93—published 3/2/94, effective 4/6/94]

CHAPTERS 11 to 13
Reserved

f. Three years following establishment of an eight-row shelterbelt, cost-sharing to enlarge the shelterbelt will be available subject to the following limitations:

- (1) Established rows must exhibit reasonable growth rates and good care by the cooperator.
- (2) Added rows will be considered a new planting under guidelines existing at that time.
- (3) Such enlargements are subject to priorities established in subrule 22.6(3), paragraph "d," subparagraphs (1) to (4).

22.6(7) Reimbursements. Cooperators shall submit billings for reimbursements on forms provided by the department.

- a. Billings shall be submitted prior to September 1 each year.
- b. Billings shall include documentation of costs incurred for planting stock.
- c. Reimbursements will not be made unless the landowner has fulfilled obligations as specified in the contract.
- d. Billings will be approved or disapproved by the wildlife biologist after inspection of the project.

571—22.7(107,110) Cost reimbursement. Whenever a landowner has been found to be in violation of a contract specified in this rule, the department may cancel the contract and the landowner shall reimburse the state for the full amount of any cost-share payments received. The requirement and procedure for recovering the cost-share payments shall be explained in the contract.

These rules are intended to implement Iowa Code sections 110.3 and 107.16.

[Filed emergency after Notice 1/11/80, Notice 11/28/79—published 2/6/80, effective 1/11/80]

[Filed 10/7/81, Notice 9/2/81—published 10/28/81, effective 12/2/81]

[Filed 10/7/82, Notice 8/4/82—published 10/27/82, effective 12/1/82]

[Filed 2/8/85, Notice 1/2/85—published 2/27/85, effective 4/3/85]

[Filed 7/10/86, Notice 4/23/86—published 7/30/86, effective 9/3/86]*

[Filed emergency 10/17/86—published 11/5/86, effective 10/17/86]

[Filed without Notice 12/12/86—published 12/31/86, effective 2/4/87]

[Filed 12/11/87, Notice 6/3/87—published 12/30/87, effective 2/5/88]

[Filed 1/5/90, Notice 11/15/89—published 1/24/90, effective 2/28/90]

*Effective date of rule 22.7 delayed seventy days by the administrative rules review committee at its August 21, 1986, meeting.

CHAPTER 23
WILDLIFE HABITAT PROMOTION WITH LOCAL ENTITIES PROGRAM
[Prior to 12/31/86, Conservation Commission(290)]

571—23.1(483A) Purpose and definitions. The purpose of this rule is to designate procedures for allotments of wildlife habitat stamp revenues to local entities. These funds must be used specifically for the acquisition of whole or partial interests in land from willing sellers for use as wildlife habitats, and the development and enhancement of wildlife lands and habitat areas. The department of natural resources will administer the stamp funds for the purposes as stated in the law at both the state and local levels. The following definitions apply in these rules:

“*Commission*” means the natural resource commission.

“*Department*” means the department of natural resources.

“*Director*” means the director of the department or a designee.

571—23.2(483A) Availability of funds. Habitat stamp funds are dependent on stamp sales. The amount of moneys available at any time will be determined by revenues received by the department. Final stamp sales for each calendar year will be determined by July 1 of the following year.

23.2(1) Local share. Funds available for local entities shall be specified in the department’s budget in accordance with legislative appropriations. At least 50 percent of the stamp revenues will be apportioned to local entities. Funds will be made available during a fiscal year of July 1 to June 30.

23.2(2) Distribution. After deducting 5 percent to be held for contingencies, the remaining local share will be available on a semiannual basis each year.

571—23.3(483A) Eligibility. Only those public agencies authorized by law to spend funds for wildlife habitat shall be eligible to participate in this program.

571—23.4(483A) Project limitations. Because of administrative costs, no application for assistance totaling less than \$3,000 (total project cost—\$4,000) will be considered.

571—23.5(483A) Eligibility for cost-sharing assistance. No project shall be eligible for cost sharing unless it is specifically approved by the commission, or the applicant has received a written waiver of retroactivity from the commission, prior to its initiation. A project shall not be eligible for cost sharing unless public hunting and trapping will be allowed; however, the review and selection committee may recommend for commission approval projects with restrictions on hunting and trapping under exceptional circumstances, like waterfowl refuges. Only the following types of project expenditures will be eligible for cost-sharing assistance.

23.5(1) Acquisition projects. Lands or rights thereto to be acquired in fee or by any other instrument shall be appraised by a competent appraiser and the appraisal approved by the department staff. The appraisal requirement may be waived when the staff determines that it is impractical for a specific project. Cost sharing will not be approved for more than 75 percent of the approved appraised value. Acquisition projects are eligible for either cost sharing by direct payments as described in subrule 23.12(7) or by reimbursement to local entities.

When a county receives or will receive financial income directly or indirectly from sources that would have been paid to the previous landowner as a result of a purchase agreement or other title transfer action, 75 percent of that income will be transferred to the department unless the grantee has demonstrated and committed to habitat development projects or additional acquisitions on the project site to be funded from the income received. The project review and selection committee must recommend, and the director and commission must approve,

plans for the expenditure of income. In the absence of acceptable wildlife habitat development or acquisition plans, the county will transfer 75 percent of income received to the department as it is received. The department will credit that income to the county apportionment of the wildlife habitat stamp fund as described in 23.2(1). The schedule of those reimbursements from a county to the state will be included in the project agreement.

23.5(2) *Development projects.* Eligible expenditures for development projects shall include, but not be limited to, contracts, the purchase of materials and supplies, rentals and extra labor hired only for the specific project. Requests to purchase equipment will not be approved. Donated labor, materials and equipment use, and force account labor and equipment use shall not be eligible for cost-sharing assistance. (Force account means the agency's own labor and equipment use.) Development projects are limited to lands legally controlled by the grantee for the expected life of the project. Development projects are eligible only for reimbursement of reasonable costs actually incurred and paid by the public agency.

23.5(3) *Enhancement projects.* For purposes of this rule "enhancement" shall be considered to be synonymous with "development".

This rule is intended to implement the provisions of Iowa Code section 483A.3.

571—23.6(483A) Application for assistance. Applications shall provide sufficient detail as to clearly describe the scope of the project and how the area will be managed.

23.6(1) *Form.* Applications shall be submitted on forms provided by the department.

23.6(2) *Time of submission.* Applications for funds shall be reviewed and selected for funding during January and July of each year. Applications must be received in acceptable form by the Department of Natural Resources, Wallace State Office Building, Des Moines, Iowa 50319, by the close of business on the last business day of May for consideration at the July review and the last business day of November for the January review. Upon timely notice to eligible recipients, additional selection periods may be scheduled if necessary to expedite the distribution of these funds. In emergencies, local entities can obtain a waiver so that acquisition projects may be approved for retroactive payments, provided that funds are available and the project meets all other criteria.

23.6(3) *Local funding.* An applicant shall certify that it has committed its share of project costs, that these funds are available, and shall state the means of providing for the local share. All necessary approvals for acquisition and financing shall be included with the application. All financial income received directly or indirectly from sources that would have been paid to the previous landowner as a result of a purchase agreement or other title transfer action will be completely documented in the application.

23.6(4) *Development projects.* An application for development project assistance may include development on more than one area if the development is of a like nature (e.g., planting trees and shrubs).

This rule is intended to implement the provisions of Iowa Code section 483A.3.

571—23.7(483A) Project review and selection.

23.7(1) *Review and selection committee.* A review and selection committee, hereinafter referred to as the committee, composed of two persons appointed by the director to represent the department, one of whom shall be designated by the director as chairperson, and three persons appointed by the director to represent county conservation boards shall determine which grant applications and amendment requests shall be selected for funding.

23.7(2) *Consideration withheld.* The committee will not consider any application which, on the date of the selection session, is not complete, or for which additional pertinent information has been requested and not received.

23.7(3) Application rating system. The committee will apply a numerical rating system to each grant application which is considered for fund assistance. The following criteria, with a weight factor for each, will be considered:

Wildlife habitat needs	2
Existing or potential habitat quality	3
Cost effectiveness	2
Species diversity	1

Each criterion will be given a score of from 1 to 10 which is then multiplied by the weight factor. Three additional criteria will be considered in the rating system:

a. Prior assistance. Any applicant that has never received a prior grant for acquisition of land will be given a bonus of five points.

b. Active projects. Any applicant that has one or more active projects at the time of application rating will be assessed five penalty points for each one that has not been completed by the date specified in the project agreement. An active project shall cease to be active when all acquisition or development or both have been satisfactorily completed and an acceptable final reimbursement billing has been submitted to the department.

c. Urgency. Projects may be given one or two bonus points if there is a strong urgency to acquire lands which might otherwise be lost.

All points will be totaled for each application and those applications receiving the highest scores will be selected for fund assistance to the extent of the allotment for each semiannual period, except that any project scoring a total of not more than 50 points will not be funded.

23.7(4) Applications not selected for fund assistance. All applications not selected for fund assistance will be retained on file for consideration and possible funding during subsequent review periods or until a request for withdrawal is received from the applicant. Applications which have been considered and not selected for funding during three consecutive review periods will be returned to the applicant.

23.7(5) Rating system not used. The rating system will not be applied during any semiannual period in which the total grant request, including backlogged applications, is less than the allotment. Applications will be reviewed only to determine eligibility and overall desirability, and to ascertain that they meet minimum scoring requirements.

571—23.8(483A) Commission review. The natural resource commission will review and act upon all committee recommendations semiannually at the next following commission meeting. The commission may reject any application selected for funding.

571—23.9(483A) Grant amendments. Projects for which grants have been approved may be amended, if funds are available, to increase or decrease project scope or to increase or decrease project costs and fund assistance. Project changes must be approved by the director prior to their inception. Amendments to increase project costs and fund assistance due to cost overruns will not be approved where funds have already been committed or the work already performed.

571—23.10(483A) Timely commencement of projects. Grant recipients are expected to carry out their projects in an expeditious manner. Projects for which grants are approved shall be commenced within six months of the date upon which the grantee is notified that the project is approved, or at another date agreed upon by both parties. Failure to do so may be cause for termination of the project and cancellation of the grant by the commission.

571—23.11(483A) Project period. A project period which is commensurate with the work to be accomplished will be assigned to each project. Project period extensions will be granted only in a case of extenuating circumstances.

571—23.12(483A) Payments.

23.12(1) Grant amount. Grant recipients will be paid 75 percent of all eligible costs incurred on a project up to the amount of the grant unless otherwise specified in the project agreement.

23.12(2) Project billings. Grant recipients shall submit billings for reimbursements or cost-sharing on forms provided by the commission.

23.12(3) Project billing frequency. Project billings for development shall be submitted on the following basis:

a. Up to \$10,000 total project cost—one billing.

b. Over \$10,000 total project cost—no more than two billings.

23.12(4) Final project billing. A final project billing shall be submitted within 90 days following the end of a project period. Failure to do so may be cause for termination of the project with no further reimbursement to the grant recipient.

23.12(5) Documentation. Grant recipients shall provide documentation as required by the department to substantiate all costs incurred on a project.

23.12(6) Reimbursement withheld. Ten percent of the total reimbursement due any grant recipient for a development project will be withheld pending a final site inspection or until any irregularities discovered as a result of a final inspection have been resolved.

23.12(7) Acquisition projects. If clearly requested in the project application and the applicant has shown good cause for such procedure, the department may approve direct payment to the seller of the state's share provided that marketable fee simple title, free and clear of all

liens and encumbrances or material objections, is obtained by the local entity at the time of payments and state funds are then available.

23.12(8) *Development projects.* On approved development projects, payment will be made by the state only as reimbursement for funds already expended by the local entity.

571—23.13(483A) *Record keeping and retention.* A grant recipient shall keep adequate records relating to its administration of a project, particularly relating to all incurred costs and direct or indirect income from other sources that normally would have been paid to the previous landowner resulting from a purchase agreement or other title transfer action. A copy of the county's audits particularly showing such income and disbursements for the grant period will be submitted to the department of natural resources' budget and grants bureau. These records shall be available for audit by appropriate personnel of the department and the state auditor's office. All records shall be retained in accordance with state laws.

571—23.14(483A) *Penalties.* Whenever any property, real or personal, acquired or developed with habitat stamp fund assistance passes from the control of the grantee or is used for other purposes which conflict with the project purpose, it will be considered an unlawful use of the funds. The department shall notify the local entity of any such violation.

23.14(1) *Remedy.* Funds thus used unlawfully must be returned to the department for inclusion in the wildlife habitat stamp fund, or a property of equal value at current market prices and with commensurate benefits to wildlife must be acquired with local, noncost-shared funds to replace it. Such replacement must be approved by the commission. The local entity shall have a period of two years after notification by the department in which to correct the unlawful use of funds. The remedies provided by this rule are in addition to others provided by law.

23.14(2) *Land disposal.* Whenever it has been determined and agreed upon by the grantee and the commission that land acquired or developed with habitat stamp fund assistance is no longer of value for the project purpose, or that the local entity has other good cause, the land, with the approval of the commission, may be disposed of and the proceeds thereof used to acquire or develop an area of equal value, or 75 percent of the proceeds shall be returned to the state for inclusion in the wildlife habitat stamp fund.

23.14(3) *Equipment disposal.* Whenever it has been determined by the grantee and the commission that equipment acquired with habitat stamp fund assistance, and with an acquisition cost of \$250 or more, is no longer of value for the project purpose, or that the local entity has other good cause, the equipment, with the approval of the commission, may be disposed of by sale or transfer to another eligible agency. The proceeds of any sale, with the approval of the commission, may be used to acquire other equipment, or 75 percent of the proceeds shall be returned to the state for inclusion in the wildlife habitat stamp fund.

23.14(4) *Ineligibility.* Whenever a local agency shall be in violation of this rule, it shall be ineligible for further assistance until the matter has been resolved to the satisfaction of the commission.

These rules are intended to implement Iowa Code section 483A.3.

[Filed 9/7/79, Notice 3/7/79—published 10/3/79, effective 11/7/79]

[Filed emergency 10/24/79—published 11/14/79, effective 11/7/79]

[Filed 1/9/81, Notice 10/29/80—published 2/4/81, effective 3/11/81]

[Filed 10/7/81, Notice 9/2/81—published 10/28/81, effective 12/2/81]

[Filed 11/5/82, Notice 9/1/82—published 11/24/82, effective 1/1/83]

[Filed 11/4/83, Notice 9/28/83—published 11/23/83, effective 1/1/84]

[Filed without Notice 12/12/86—published 12/31/86, effective 2/4/87]

[Filed 10/13/89, Notice 8/9/89—published 11/1/89, effective 12/6/89]

[Filed 6/7/91, Notice 5/1/91—published 6/26/91, effective 7/31/91*]

[Filed 10/11/91, Notice 8/21/91—published 10/30/91, effective 12/4/91]

[Filed 2/11/94, Notice 10/27/93—published 3/2/94, effective 4/6/94]

*Effective date of rule 23.17(31/91) delayed until adjournment of the 1992 Session of the General Assembly by the Administrative Rules Review Committee (ARRC) at its meeting held July 12, 1991. Delay lifted at the ARRC meeting held November 13, 1991.

CHAPTER 40
BOATING SPEED AND DISTANCE ZONING

[Prior to 12/31/86; Conservation Commission(290), ch 30]

571—40.1(462A) Restricted areas. All vessels, except authorized emergency vessels, shall be operated in compliance with, and all persons engaged in water recreation activities, shall obey restrictions with posted areas marked with a uniform waterway buoy or official signs adopted by the natural resource commission.

571—40.2(462A) Uniform buoy system. All buoys placed shall be those of the uniform waterway marking system adopted by the natural resource commission and shall be constructed, placed, and maintained in accordance with Iowa Code chapter 462A and Iowa Administrative Code 571—Chapters 40 and 41.

571—40.3(462A) Commission approval. The placement of buoys or official signs that restrict speed and distance or involve special zoning restrictions shall be approved by the natural resource commission.

571—40.4(462A) Right for aggrieved party to appeal. Any finding or establishment of areas involving special speed and distance or zoning restrictions by the natural resource commission may be appealed by aggrieved party upon written notice. A hearing thereon shall be held by the natural resource commission within thirty days thereafter.

571—40.5(462A) Rathbun Lake, Appanoose County—zoned areas.

40.5(1) Areas may be specifically designated for swimming and wading.

40.5(2) Areas may be designated restricted speed areas.

571—40.6(462A) Red Rock Lake, Marion County—zoned areas.

40.6(1) Areas may be specifically designated for swimming and wading.

40.6(2) Areas may be designated restricted speed areas.

571—40.7(462A) Coralville Lake, Johnson County—zoned areas.

40.7(1) Areas may be specifically designated for swimming and wading.

40.7(2) Areas may be designated restricted speed areas.

571—40.8(462A) Saylorville Lake, Polk County—zoned areas.

40.8(1) Areas may be specifically designated for swimming and wading.

40.8(2) Areas may be designated restricted speed areas.

571—40.9(462A) Lake Odessa in Louisa County.

40.9(1) Areas may be designated restricted speed areas.

40.9(2) All motorboats, except authorized emergency vessels, shall be operated at no-wake speed between April 1 and October 1 yearly, on that portion of Lake Odessa known as the Sand Run Chute, lying south of the main lake to a point 100 yards south of the Sand Run boat ramp.

571—40.10(462A) Mississippi River lock and dam safety zone. A safety zone is hereby established in Iowa waters above and below all navigation lock and dam structures on the Mississippi River between the Iowa-Minnesota border and the Iowa-Missouri border. The established zone shall be 600 feet upstream and 150 feet downstream from the roller gate or tainter gate section of the structure.

40.10(1) The safety zone does not include the area directly above and below the navigation lock structure.

40.10(2) The safety zone does not include the area directly above and below the solid fill portion of the dam and structure.

40.10(3) The safety zone shall be recognized by the state of Iowa only when plainly marked as follows:

- a. Upstream signs worded—Restricted area keep 600 feet from dam.
- b. Downstream signs worded—Restricted area keep 150 feet from dam.
- c. Flashing red lights will be used to make the outer limits of the restricted areas.

40.10(4) No boat or vessel of any type, except authorized vessels, shall enter the established safety zones recognized by the state of Iowa as described in this rule.

571—40.11(462A) Joyce Slough Area. The Joyce Slough Area, a portion of the Mississippi River within the city of Clinton, Iowa, is hereby zoned to be a harbor area and vessels traveling therein shall not travel at speeds in excess of five miles per hour.

571—40.12(462A) Swan Slough, Camanche, Iowa. A restricted speed zone is hereby established in all or part of the main channel of Swan Slough (Mississippi River mile 510.2 to 511.3), Camanche, Iowa, as designated by buoys.

571—40.13(462A) Massey Slough. Operation of vessels in Massey Slough of the Mississippi River at Massey Station, Dubuque County, Iowa, extending from a northerly to southerly direction from the upper end to the lower end of the slough, encompassing the water in Section 14, Township 88N, Range 3E of the 5th P.M., tract number NFIA-26M.

40.13(1) All boats underway must maintain a speed of less than five miles per hour in said waters.

40.13(2) Reserved.

571—40.14(462A) Black Hawk County waters. Operation of vessels in Black Hawk County on the Cedar River and any connected backwaters shall be governed by this departmental rule as well as all applicable state laws and regulations.

40.14(1) No vessel, except authorized emergency vessels, shall be operated in marked areas at a speed greater than the limit designated by buoys, signs, or other approved uniform waterway marking devices marking the area.

40.14(2) All vessels, except authorized emergency vessels, shall be operated at a no-wake speed when within six hundred feet of the Franklin Street bridge. This six hundred-foot zone shall be designated by buoys, signs, or other approved uniform waterway marking devices.

40.14(3) No vessel shall tow skiers, surfboard riders, or other towable devices within the zone established by 40.14(2).

571—40.15(462A) Mitchell County waters. Operation of vessels in Mitchell County on the following impounded waters:

Cedar River from Mitchell Dam, thence upriver to the County "S" bridge.

Cedar River from the St. Ansgar Mill Dam, thence upriver to the Newberg Bridge crossing Highway 105.

Cedar River from the Otranto Dam upriver to the Great Western Railway Bridge crossing the Cedar River.

The Stacyville Pool, on the Little Cedar River at Stacyville, Iowa.

40.15(1) Water recreation activities as restricted within posted areas which are marked with approved buoys shall be obeyed.

40.15(2) Reserved.

571—40.16(462A) Maquoketa River. Operation of vessels of the impoundment of the Maquoketa River in Delaware County, Iowa, extending westerly and northerly from the line between Sections 29 and 30 in Delhi Township in said county, to the line between Sections 10 and 15 in Milo Township in said county which impoundment is sometimes known and referred to as Hartwick Lake or Lake Delhi.

571—40.29(462A) Speed restrictions on Brown's Lake. No motorboat shall be operated at a speed to exceed five miles per hour within the zoned area 1,700 feet from the boat ramp east to the regulatory buoys on Brown's Lake in Woodbury County.

571—40.30(462A) Speed restrictions on Snyder Bend Lake. No motorboat shall be operated at a speed to exceed five miles per hour within the zoned area 1,200 feet from the boat ramp south to the regulatory sign and buoys on Snyder Bend Lake in Woodbury County.

571—40.31(462A) East Okoboji, West Okoboji, Dickinson County—zoned areas.

40.31(1) No motorboat shall be operated at a speed which will create a wake within the zoned area designated by regulatory buoys on East Okoboji and West Okoboji in Dickinson County.

The zoned area shall be a line from the east side of Givens Point to the south end of Arnolds Park City Beach, on West Okoboji. Also a line 150 yards east from the north end of the railroad trestle bridge at Clair Wilsons State Park south to the shoreline of East Lake Okoboji.

40.31(2) Areas may be specifically designated for swimming by the use of regulatory buoys.

571—40.32(462A) Spirit Lake, Dickinson County.

40.32(1) Areas may be specifically designated for swimming by the use of regulatory buoys.

40.32(2) Reserved.

571—40.33(462A) Speed restrictions on the Mississippi River, Jackson County, at Spruce Creek County Park. No motorboat shall operate at a speed to exceed five miles per hour within the area designated by buoys or other approved uniform waterway markers, beginning at the entrance of Spruce Creek harbor and extending southeast 550 feet and extending east 150 feet from shore. The Jackson County conservation board will designate the speed zone with uniform waterway markers (buoys) approved by the natural resource commission.

571—40.34(462A) Speed restrictions on the Mississippi River, Jackson County, at the city of Sabula. No motorboat shall operate at a speed to exceed five miles per hour within the four zoned areas designated by buoys or other approved uniform waterway markers.

40.34(1) Zone 1. Zone 1 shall extend 200 feet from shore and begin at a point 100 feet above the north Sabula city boat ramp and ending at a point downstream where Bank Street intersects the river bank.

40.34(2) Zone 2. Zone 2 shall extend 200 feet from shore and extend 100 feet upstream and 100 feet downstream from the entrance to the Island City Harbor.

40.34(3) Zone 3. Zone 3 shall extend 200 feet into Lower Sabula Lake from the county boat ramp and 100 feet to the left of the ramp and 100 feet to the right of the ramp.

40.34(4) Zone 4. Zone 4 shall extend 200 feet in all directions beginning at the center of the "cut" into Lower Sabula Lake.

The city of Sabula shall designate the speed zones with uniform waterway markers (buoys) approved by the natural resource commission.

571—40.35(462A) Speed restrictions on the Greene Impoundment of the Shell Rock River. No motorboat shall be operated at a speed exceeding five miles per hour in the two zoned areas of the Greene Impoundment designated by buoys or other approved uniform waterway markers. The first zoned area extends from the dam in the city of Greene, upstream approximately one-quarter mile to the north boundary of the city park in which the lower boat ramp is located. The second zoned area extends from the county bridge over the Shell Rock River

on the north side of section 28 of Union Township in Floyd County, downstream approximately one-quarter mile to the south boundary of Gates Bridge County Park. The city of Greene and Floyd County shall designate their respective speed zones with uniform waterway markers (buoys) approved by the natural resource commission.

571—40.36(462A) Zoning of the Iowa River, Iowa Falls, Hardin County.

40.36(1) All vessels operated in a designated zone between the River Street Bridge and the dock at Dougan's Landing shall be operated at a no-wake speed.

40.36(2) The city of Iowa Falls shall designate and maintain the no-wake zone with marker buoys approved by the natural resource commission.

571—40.37(462A) Zoning of Crystal Lake. No motorboat shall be operated at a speed which will create a wake within the 25-acre zoned area designated by regulatory buoys on Crystal Lake in Hancock County.

These rules are intended to implement the provisions of Iowa Code sections 462A.17, 462A.26, and 462A.31.

[Filed 12/19/61; amended 7/23/62, 1/14/64, 3/24/64, 9/14/65, 1/11/66, 9/13/66, 12/13/67, 7/16/68, 8/14/68, 3/15/73, amended 5/29/75]

[Filed 9/23/76, Notice 6/28/76—published 10/20/76, effective 11/24/76]

[Filed 7/7/77, Notice 3/23/77—published 7/27/77, effective 8/31/77]

[Filed emergency 8/5/77—published 8/24/77, effective 8/5/77]

[Filed 1/9/78, Notice 8/24/77—published 1/25/78, effective 3/1/78]

[Filed emergency 5/2/79 after Notice 3/21/79—published 5/30/79, effective 5/2/79]

[Filed 7/6/79, Notice 5/30/79—published 7/25/79, effective 8/29/79]

[Filed 7/13/82, Notice 5/26/82—published 8/4/82, effective 9/8/82]

[Filed 10/7/82, Notice 6/23/82—published 10/27/82, effective 12/1/82]

[Filed 10/7/82, Notice 9/1/82—published 10/27/82, effective 12/1/82]

[Filed 10/6/83, Notice of 8/3/83—published 10/26/83, effective 12/1/83]

[Filed 3/9/84, Notice 12/21/83—published 3/28/84, effective 5/3/84]

[Filed 4/5/85, Notice 1/30/85—published 4/24/85, effective 5/29/85]

[Filed 9/5/85, Notice 7/3/85—published 9/25/85, effective 10/30/85]

[Filed 4/4/86, Notice 2/26/86—published 4/23/86, effective 5/28/86]

[Filed 10/17/86, Notice 7/30/86—published 11/5/86, effective 12/10/86]

[Filed without Notice 12/12/86—published 12/31/86, effective 2/4/87]

[Filed 8/5/88, Notice 6/1/88—published 8/24/88, effective 9/28/88]

[Filed 8/17/89, Notice 5/3/89—published 9/6/89, effective 10/11/89]

[Filed 2/2/90, Notice 11/29/89—published 2/21/90, effective 3/28/90]

[Filed 1/18/91, Notice 10/31/90—published 2/6/91, effective 3/28/91]

[Filed 2/15/91, Notice 11/28/90—published 3/6/91, effective 4/10/91]

[Filed 1/17/92, Notice 10/30/91—published 2/5/92, effective 3/11/92]

[Filed 6/5/92, Notice 4/1/92—published 6/24/92, effective 7/29/92]

[Filed 11/6/92, Notice 9/30/92—published 11/25/92, effective 12/30/92]

[Filed 8/13/93, Notice 5/26/93—published 9/1/93, effective 10/6/93]

[Filed 2/11/94, Notice 8/4/93—published 3/2/94, effective 4/6/94]

CHAPTER 53
CONTROLLED HUNTING AREAS

(Prior to 12/31/86; Conservation Commission(290), chs 14 and 15)

571—53.1(481A) Definitions.

“*Commission*” means the natural resource commission.

“*Department*” means the department of natural resources.

“*Director*” means the director of the department of natural resources or a designee.

571—53.2(481A) Waterfowl hunting on Forney Lake and Riverton Area. The following regulations shall be enforced during the waterfowl seasons on Forney Lake and the Riverton Area, both in Fremont County, Iowa.

53.2(1) Controlled area. Portions of both Forney Lake and the Riverton Area, where posted, shall be designated as controlled site hunting areas. No persons (except department personnel and law enforcement officials in performance of their official duties) shall enter upon these designated controlled areas during the waterfowl hunting seasons unless they possess a valid daily permit.

a. Forney Lake. The entire Forney Lake area north of the east-west county road shall be a controlled area.

b. Riverton Area. The entire Riverton Area lying north of the check station road, where posted, shall be a controlled area.

53.2(2) Reservations. Persons may reserve blind sites on these controlled areas under the following conditions:

a. Blind reservations will be accepted by the department beginning on the second Monday of September each year. Reservations must be made for Forney Lake at Department of Natural Resources, Forney Lake, Thurman, Iowa, and for the Riverton Area at Department of Natural Resources, Riverton Area, Riverton, Iowa. Reservations will be issued on a first-come-first-served basis.

b. Requests for reservations must be accompanied by \$10 for each day requested. In addition, each hunter, except for the reservation holder, will be charged \$5 when registering to hunt. Application letters shall contain the reservation request(s) of only one individual.

c. Individuals holding reservations must be present at the reservation headquarters at the appropriate area one hour before the start of legal shooting time on the date of the reservation or the reservation will be voided. Reservation fees will not be refunded.

d. Persons without reservations will be accommodated each day on a first-come-first-served basis, if blinds are available, and upon payment of the reservation and other fees.

e. No individual may reserve more than one blind for any given day.

f. Until after the opening date of the goose season each year, no individual may make reservations for more than two days on Saturday, Sunday, Veteran’s Day, Thanksgiving Day, and the Friday following Thanksgiving Day. This restriction shall not apply to any period when the duck season is open but the goose season is closed.

53.2(3) Blind sites. All hunters will be assigned a hunting blind and must stay in the assigned blind except when going to and from the blind, or when retrieving downed birds.

a. Blinds will be assigned by drawing and the party must hunt from the assigned blind only.

b. Parties may change blinds if blinds are available only by reregistering and paying an additional \$5 fee for the party. The party must relinquish the blind which they originally held.

53.2(4) Permits. Daily permits, designating the blind assignment, will be issued subject to the following:

a. All hunters shall exchange their hunting licenses at the reservation station for a permit. Hunters must return to the reservation station immediately upon leaving the blind and must present all bagged game for inspection before leaving the area. Licenses will be returned when hunters properly check out of the area.

b. Permits will be issued only to bona fide hunters, except nonhunters may be issued permits by paying the required fees when extra space is available. Nonhunters accompanying a permit holder will not be charged the registration fee.

53.2(5) Ammunition. Nonhunters may not possess shells or firearms on the areas. Hunters shall use or possess only shotshells with steel shot not larger than size BB.

53.2(6) Area restriction. It shall be unlawful to shoot or carry firearms between the dates of September 15 and December 15 of each year, both dates inclusive, around the perimeter of the entire Forney Lake Refuge within the posted limits of a strip approximately 100 yards wide, and a similar area where so posted on the Riverton Area.

571—53.3(481A) Waterfowl hunting on Lake Odessa. The following regulations shall be in effect during waterfowl seasons on Lake Odessa, Louisa County, Iowa.

53.3(1) Controlled area. The Lake Odessa public hunting area, where posted, shall be designated as a controlled site hunting area. No person (except department personnel and law enforcement officials in performance of their official duties) shall enter upon this portion of the Lake Odessa area during the period from the opening day of the waterfowl seasons, until the end of the duck seasons each year, unless they possess a valid daily permit, when required, issued for the zone in which they wish to hunt. Permits shall be issued, by zones, as follows:

a. Controlled area "A." Permits for area A will be issued at the Schafer Access check station. A drawing to determine hunting sites will be held 90 minutes before the start of shooting time for waterfowl each day. One person shall fill out a permit with the names of all persons in the hunting party (maximum of six) and present the permit to the check station attendant prior to the drawing time. The nonrefundable daily permit fee to enter the drawing is \$5 per party, unless one member of the party has a \$50 season permit. If a person's name appears on more than one permit, the person shall be disqualified from hunting on the area for that day. When a person's name is on one permit, the person cannot subsequently hunt with any other party prior to 10 a.m. each day. The person who filled out the permit shall draw to determine the sequence of site selection. Permits for area A will be issued for each party, giving the hunters' individual names and the stake site number which they selected. The party shall hunt only at that site and must stay within 40 yards of the stake except when retrieving game or when going to and from the area. A party at any one site can use no more than two boats. Decoys must be placed within 60 feet of the stake. Hunting and the location of decoys, at double stake sites, is restricted to one of the stake sites.

b. Controlled area "B." Permits for area B are required only on opening weekends of duck season. Permits for this area will be issued at both the Schafer Access check station and the Sand Run station. Permits will be issued on a first-come, first-served basis from 90 minutes before, until one hour after, the start of legal shooting time for waterfowl each day. Each boat will be issued, without charge, a permit showing the name of each member of the party. Hunting sites will not be designated. Persons may enter area B without securing a permit beginning one hour after the start of legal shooting time for waterfowl each day.

53.3(2) Exhibiting permits. Permittees must exhibit permits to law enforcement officers upon request.

53.3(3) Checkout time. Permittees for area A must check out of the check station where their permit was issued within 30 minutes after vacating their stake site, and must present all game taken at the check station for inspection.

53.3(4) Leaving the area. All boats, blinds, and decoys must be removed from the controlled areas and permittees for zone A checked out of the check station within one hour after the close of legal shooting time for waterfowl each day.

These rules are intended to implement Iowa Code sections 481A.5, 481A.6, 481A.7, and 481A.48.

[Filed June 10, 1975]

[Filed 6/13/77, Notice 5/4/77—published 7/13/77, effective 8/17/77]

[Filed emergency 9/1/77—published 9/21/77, effective 9/1/77]

[Filed 6/8/78, Notice 4/5/78—published 6/28/78, effective 8/2/78]

[Filed 6/5/81, Notice 4/1/81—published 6/24/81, effective 7/29/81]

[Filed emergency after Notice 9/7/84, Notice 3/28/84—published 9/26/84, effective 9/7/84]

[Filed 6/6/85, Notice 3/27/85—published 7/3/85, effective 8/15/85]

[Filed without Notice 12/12/86—published 12/31/86, effective 2/4/87]

[Filed 2/11/94, Notice 8/4/93—published 3/2/94, effective 4/6/94]

**CHAPTER 54
RESTRICTION ON REMOVAL OF PLANT LIFE**

[Prior to 12/31/86; Conservation Commission(290), ch 47]

571—54.1(461A) Mushrooms and asparagus. Lands under the jurisdiction of the commission shall be open for the taking of mushrooms and asparagus during the hours the areas are open to the public.

571—54.2(461A) Fruit. Lands under the jurisdiction of the commission shall be open for the taking of all varieties of nuts, fruits, and berries unless signs are posted prohibiting such activity. Nut, fruit, and berry gathering shall be permitted only during the hours the areas are open to the public and shall not be permitted in state preserves unless otherwise allowed by the preserves management plan.

571—54.3(461A) American ginseng.

54.3(1) Lands under the jurisdiction of the commission except state parks and preserves shall be open for the taking of American ginseng (*Panax quinquefolius*) during the season established by 571—78.2(456A).

54.3(2) When digging is done to collect ginseng, the earth is not to be unduly disturbed. The collector shall, immediately upon removal of the plant, restore the disturbed area as nearly as possible to its original condition.

This rule implements Iowa Code section 461A.41.

[Filed emergency 2/9/76—published 2/23/76, effective 2/9/76]

[Filed 3/9/84, Notice 2/1/84—published 3/28/84, effective 5/3/84]

[Filed emergency 8/8/85—published 8/28/85, effective 8/28/85]

[Filed without Notice 12/12/86—published 12/31/86, effective 2/4/87]

TITLE VIII
SEASONS, LIMITS, METHODS OF TAKE
CHAPTER 76
UNPROTECTED NONGAME

[Prior to 12/31/86; Conservation Commission(290), ch 16]

571—76.1(481A) Species. Certain species of nongame shall not be protected.

76.1(1) *Birds.* The European starling and the house sparrow shall not be protected.

76.1(2) *Reptiles.* The common garter snake and the timber rattlesnake shall not be protected.

This rule is intended to implement Iowa Code sections 481A.38, 481A.39, and 481A.42.

[Filed 1/5/84, Notice 11/23/83—published 2/1/84, effective 3/7/84]

[Filed 10/17/86, Notice 8/27/86—published 11/5/86, effective 1/1/87]

[Filed without Notice 12/12/86—published 12/31/86, effective 2/4/87]

CHAPTER 77
ENDANGERED AND THREATENED PLANT AND ANIMAL SPECIES

[Prior to 12/31/86, Conservation Commission(290), Ch 19]

571—77.1(481B) Definitions. As used in this rule:

“*Endangered species*” means any species of fish, plant life, or wildlife which is in danger of extinction throughout all or a significant part of its range.

“*Special concern species*” means any species about which problems of status or distribution are suspected, but not documented, and for which no special protection is afforded under this rule.

“*Threatened species*” means any species which is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range.

571—77.2(481B) Endangered, threatened, and special concern animals. The natural resource commission, in consultation with scientists with specialized knowledge and experience, has determined the following animals species to be endangered, threatened or of special concern in Iowa:

77.2(1) Endangered animal species:

Mammals

Indiana Bat
Plains Pocket Mouse
Red-backed Vole
Bobcat

Myotis sodalis
Perognathus flavescens
Clethrionomys gapperi
Felis rufus

Birds

Red-shouldered Hawk
Northern Harrier
Peregrine Falcon
Piping Plover
Common Barn Owl
Least Tern
Bald Eagle
King Rail
Short-eared Owl

Buteo lineatus
Circus cyaneus
Falco peregrinus
Charadrius melodus
Tyto alba
Sterna antillarum
Haliaeetus leucocephalus
Rallus elegans
Asio flammeus

Fish

Lake Sturgeon
Pallid Sturgeon
Pugnose Shiner
Weed Shiner
Pearl Dace
Freckled Madtom
Bluntnose Darter
Least Darter

Acipenser fulvescens
Scaphirhynchus albus
Notropis anogenus
Notropis texanus
Semotilus margarita
Noturus nocturnus
Etheostoma chlorosomum
Etheostoma microperca

Reptiles

Yellow Mud Turtle
Wood Turtle
Great Plains Skink

Kinosternon flavescens
Clemmys insculpta
Eumeces obsoletus

Slender Glass Lizard
 Yellowbelly Water Snake
 Western Hognose Snake
 Speckled Kingsnake
 Copperhead
 Prairie Rattlesnake
 Massasauga Rattlesnake

Ophisaurus attenuatus
Nerodia erythrogaster
Heterodon nasicus
Lampropeltis getulus
Agkistrodon contortrix
Crotalus viridis
Sistrurus catenatus

Amphibians

Blue-spotted Salamander
 Mudpuppy
 Crawfish Frog

Ambystoma laterale
Necturus maculosus
Rana areolata

Butterflies

Dakota Skipper
 Ringlet

Hesperia dacotae
Coenonympha tullia

Land Snails

Iowa Pleistocene Snail
 Minnesota Pleistocene Ambersnail
 Iowa Pleistocene Ambersnail
 Frigid Ambersnail
 Briarton Pleistocene Vertigo
 Bluff Vertigo
 Iowa Pleistocene Vertigo

Discus macclintocki
Novisuccinea new species A
Novisuccinea new species B
Catinella gelida
Vertigo briarensis
Vertigo meramecensis
Vertigo new species

Fresh Water Mussels

Spectacle Case
 Slippershell
 Buckhorn
 Ozark Pigtoe
 Bullhead
 Ohio River Pigtoe
 Slough Sandshell
 Yellow Sandshell
 Higgin's-eye Pearly Mussel

Cumberlandia monodonta
Alasmidonta viridis
Tritogonia verrucosa
Fusconaia ozarkensis
Plethobasus cyphus
Pleurobema sintoxia
Lampsilis teres teres
Lampsilis teres anodontoides
Lampsilis higginsii

77.2(2) Threatened animal species:

Least Shrew
 Grasshopper Mouse
 Spotted Skunk
 River Otter

Mammals

Cryptotis parva
Onychomys leucogaster
Spilogale putorius
Lutra canadensis

Birds

Long-eared Owl
 Henslow's Sparrow

Asio otus
Ammodramus henslowii

Fish

Chestnut Lamprey	Ichthyomyzon castaneus
American Brook Lamprey	Lampetra appendix
Grass Pickerel	Esox americanus
Blacknose Shiner	Notropis heterolepis
Western Sand Darter	Ammocrypta clara
Black Redhorse	Moxostoma duquesnei
Burbot	Lota lota
Orangethroat Darter	Etheostoma spectabile

Reptiles

Stinkpot	Sternotherus odoratus
Ornate Box Turtle	Terrapene ornata
Diamondback Water Snake	Nerodia rhombifera
Western Worm Snake	Carphophis amoneus
Smooth Green Snake	Opheodrys vernalis

Amphibians

Central Newt	Notophthalmus viridescens
--------------	---------------------------

Butterflies

Powesheik Skipperling	Oarisma powesheik
Byssus Skipper	Problema byssus
Mulberry Wing	Poanes massasoit
Silvery Blue	Glaucopygma lygdamus
Baltimore	Euphydryas phaeton

Snails

Midwest Pleistocene Vertigo	Vertigo hubrichti
Occult Vertigo	Vertigo occulta

Fresh Water Mussels

Cylinder	Anodontoides ferussacianus
Strange Floater	Strophitus undulatus
Creek Heelsplitter	Lasmigona compressa
Purple Pimpleback	Cyclonaias tuberculata
Butterfly	Ellipsaria lineolata
Ellipse	Venustaconcha ellipsiformis

77.2(3) Special concern animal species:

Mammals

Southern Bog Lemming	Synaptomys cooperi
----------------------	--------------------

Birds

Forester's Tern	Sterna forsteri
Black Tern	Chlidonias niger

Fish

Pugnose Minnow
Pirate Perch

Notropis emiliae
Aphredoderus sayanus

Butterflies

Dreamy Duskywing
Sleepy Duskywing
Columbine Duskywing
Wild Indigo Duskywing
Ottoe Skipper
Leonardus Skipper
Pawnee Skipper
Beardgrass Skipper
Zabulon Skipper
Broad-winged Skipper
Sedge Skipper
Two-spotted Skipper
Dusted Skipper
Salt-and-pepper Skipper
Pipevine Swallowtail
Zebra Swallowtail
Olympia White
Purplish Copper
Acadian Hairstreak
Edward's Hairstreak
Hickory Hairstreak
Striped Hairstreak
Swamp Metalmark
Regal Fritillary
Baltimore

Erynnis icelus
Erynnis brizo
Erynnis lucilius
Erynnis baptisiae
Hesperia ottoe
Hesperia l. leonardus
Hesperia leonardus pawnee
Atrytone arogos
Poanes zabulon
Poanes viator
Euphyes dion
Euphyes bimacula
Atrytonopsis hianna
Amblyscirtes hegon
Battus philenor
Eurytides marcellus
Euchloe olympia
Lycaena helloides
Satyrium adacium
Satyrium edwardsii
Satyrium caryaevorum
Satyrium liparops
Calephelis mutica
Speyeria idalia
Euphydryas phaeton ozarkae

571—77.3(481B) Endangered, threatened, and special concern plants. The natural resource commission, in consultation with scientists with special knowledge and experience, determined the following plant species to be endangered, threatened, or of special concern in Iowa.

77.3(1) Endangered plant species:

COMMON NAME

Pale false foxglove
Blue giant-hyssop
Bearberry
Black chokeberry
Eared milkweed
Mead's milkweed
Narrow-leaved milkweed
Ricebutton aster
Large-leaved aster
Schreber's aster
Fern-leaved false foxglove
Matricary grape fern

SCIENTIFIC NAME

Agalinus skinneriana
Agastache foeniculum
Arctostaphylos uva-ursi
Aronia melanocarpa
Asclepias engelmanniana
Asclepias meadii
Asclepias stenophylla
Aster dumosus
Aster macrophyllus
Aster schreberi
Aureolaria pedicularia
Botrychium matricariifolium

Poppy mallow	Callirhoe triangulata
Cordroot sedge	Carex chordorrhiza
Large-bracted corydalis	Corydalis curvisiliqua
Silky prairie-clover	Dalea villosa
Swamp-loosestrife	Decodon verticillatus
Northern panic-grass	Dichanthelium boreale
Roundleaved sundew	Drosera rotundifolia
False mermaid	Floerkea proserpinacoides
Bog bedstraw	Galium labradoricum
Povertygrass	Hudsonia tomentosa
Northern St. Johnswort	Hypericum boreale
Pineweed	Hypericum gentianoides
Winterberry	Ilex verticillata
Black-based quillwort	Isoetes melanopoda
Water-willow	Justicia americana
Dwarf dandelion	Krigia virginica
Cleft conobea	Leucospora multifida
Whiskbroom parsley	Lomatium foeniculaceum
Running clubmoss	Lycopodium clavatum
Bog clubmoss	Lycopodium inundatum
Annual skeletonweed	Lygodesmia rostrata
Water marigold	Megalodonta beckii
Northern lungwort	Mertensia paniculata
Bigroot pricklypear	Opuntia macrorhiza
Clustered broomrape	Orobanche fasciculata
Ricegrass	Oryzopsis pungens
Cinnamon fern	Osmunda cinnamomea
Purple cliffbrake	Pellaea atropurpurea
Arrow arum	Peltandra virginica
Pale green orchid	Platanthera flava
Eastern prairie fringed orchid	Platanthera leucophaea
Clammyweed	Polansia jamesii
Crossleaf milkwort	Polygala cruciata
Purple milkwort	Polygala polygama
Jointweed	Polygonella articulata
Douglas' knotweed	Polygonum douglasii
Three-toothed cinquefoil	Potentilla tridentata
Canada plum	Prunus nigra
Frenchgrass	Psoralea onobrychis
Pink shinleaf	Pyrola asarifolia
Prickly rose	Rosa acicularis
Meadow spikemoss	Selaginella eclipes
Rough-leaved goldenrod	Solidago patula
Bog goldenrod	Solidago uliginosa
Yellow-lipped ladies-tresses	Spiranthes lucida
Pickering morning-glory	Stylisma pickeringii
Rough-seeded fameflower	Talinum rugospermum
Waxy meadowrue	Thalictrum revolutum
Long beechfern	Thelypteris phegopteris
Large-leaved violet	Viola incognita
Rusty woodsia	Woodsia ilvensis
Yellow-eyed grass	Xyris torta

77.3(2) Threatened plant species:

Northern wild monkshood	<i>Aconitum noveboracense</i>
Round-stemmed false foxglove	<i>Agalinus gattererii</i>
Nodding wild onion	<i>Allium cernuum</i>
Fragrant false indigo	<i>Amorpha nana</i>
Virginia snakeroot	<i>Aristolochia serpentaria</i>
Woolly milkweed	<i>Asclepias lanuginosa</i>
Showy milkweed	<i>Asclepias speciosa</i>
Forked aster	<i>Aster furcatus</i>
Rush aster	<i>Aster junciformis</i>
Flax-leaved aster	<i>Aster linariifolius</i>
Water parsnip	<i>Berula erecta</i>
Kittentails	<i>Besseyia bullii</i>
Bog birch	<i>Betula pumila</i>
Pagoda plant	<i>Blephilia ciliata</i>
Leathery grapefern	<i>Botrychium multifidum</i>
Little grapefern	<i>Botrychium simplex</i>
Sweet Indian-plantain	<i>Cacalia suaveolens</i>
Poppy mallow	<i>Callirhoe alcaeoides</i>
Pipsissewa	<i>Chimaphila umbellata</i>
Golden saxifrage	<i>Chrysosplenium iowense</i>
Dayflower	<i>Commelina erecta</i>
Spotted coralroot	<i>Corallorhiza maculata</i>
Bunchberry	<i>Cornus canadensis</i>
Golden corydalis	<i>Corydalis aurea</i>
Pink corydalis	<i>Corydalis sempervirens</i>
Showy lady's-slipper	<i>Cypripedium reginae</i>
Slim-leaved panic-grass	<i>Dichanthelium linearifolium</i>
Jeweled shooting star	<i>Dodecatheon amethystinum</i>
Glandular wood fern	<i>Dryopteris intermedia</i>
Marginal shield fern	<i>Dryopteris marginalis</i>
Woodland horsetail	<i>Equisetum sylvaticum</i>
Slender cottongrass	<i>Eriophorum gracile</i>
Yellow trout lily	<i>Erythronium americanum</i>
Queen of the prairie	<i>Filipendula rubra</i>
Blue ash	<i>Fraxinus quadrangulata</i>
Black huckleberry	<i>Gaylussacia baccata</i>
Oak fern	<i>Gymnocarpium dryopteris</i>
Green violet	<i>Hybanthus concolor</i>
Twinleaf	<i>Jeffersonia diphylla</i>
Creeping juniper	<i>Juniperus horizontalis</i>
Intermediate pinweed	<i>Lechea intermedia</i>
Hairy pinweed	<i>Lechea villosa</i>
Prairie bush clover	<i>Lespedeza leptostachya</i>
Twinflower	<i>Linnaea borealis</i>
Western parsley	<i>Lomatium orientale</i>
Wild lupine	<i>Lupinus perennis</i>
Tree clubmoss	<i>Lycopodium dendroideum</i>
Rock clubmoss	<i>Lycopodium porophyllum</i>
Hairy waterclover	<i>Marsilea vestita</i>
Bog buckbean	<i>Menyanthes trifoliata</i>

Winged monkeyflower	Mimulus alatus
Yellow monkeyflower	Mimulus glabratus
Partridge berry	Mitchella repens
Pinesap	Monotropa hypopithys
Small sundrops	Oenothera perennis
Little pricklypear	Opuntia fragilis
Royal fern	Osmunda regalis
Philadelphia panic-grass	Panicum philadelphicum
Slender beardtongue	Penstemon gracilis
Hooker's orchid	Platanthera hookeri
Northern bog orchid	Platanthera hyperborea
Western prairie fringed orchid	Platanthera praecleara
Purple fringed orchid	Platanthera psychodes
Pink milkwort	Polygala incarnata
Silverweed	Potentilla anserina
Shrubby cinquefoil	Potentilla fruticosa
Pennsylvania cinquefoil	Potentilla pensylvanica
One-sided shinleaf	Pyrola secunda
Meadow beauty	Rhexia virginica
Beaked rush	Rhynchospora capillacea
Northern currant	Ribes hudsonianum
Shining willow	Salix lucida
Bog willow	Salix pedicellaris
Low nutrush	Scleria verticillata
Buffaloberry	Shepherdia argentea
Scarlet globemallow	Sphaeralcea coccinea
Slender ladies-tresses	Spiranthes lacera
Oval ladies-tresses	Spiranthes ovalis
Hooded ladies-tresses	Spiranthes romanzoffiana
Spring ladies-tresses	Spiranthes vernalis
Rosy twisted-stalk	Streptopus roseus
Fameflower	Talinum parviflorum
Large arrowgrass	Triglochin maritimum
Small arrowgrass	Triglochin palustre
Low sweet blueberry	Vaccinium angustifolium
Velvetleaf blueberry	Vaccinium myrtilloides
False hellebore	Veratrum woodii
Kidney-leaved violet	Viola renifolia
Oregon woodsia	Woodsia oregana

77.3(3) Special concern plant species:

Balsam fir	Abies balsamea
Three-seeded mercury	Acalypha gracilens
Three-seeded mercury	Acalypha ostryifolia
Mountain maple	Acer spicatum
Moschatel	Adoxa moschatellina
Water plantain	Alisma gramineum
Wild onion	Allium mutabile
Amaranth	Amaranthus arenicola
Lanceleaf ragweed	Ambrosia bidentata
Saskatoon serviceberry	Amelanchier alnifolia

Low serviceberry	<i>Amelanchier sanguinea</i>
Raccoon grape	<i>Ampelopsis cordata</i>
Pearly everlasting	<i>Anaphalis margaritacea</i>
Sand bluestem	<i>Andropogon hallii</i>
Broomsedge	<i>Andropogon virginicus</i>
Purple angelica	<i>Angelica atropurpurea</i>
Purple rockcress	<i>Arabis divaricata</i>
Green rockcress	<i>Arabis missouriensis</i>
Lakecress	<i>Armoracia lacustris</i>
Fringed sagewort	<i>Artemisia frigida</i>
Common mugwort	<i>Artemisia vulgaris</i>
Pawpaw	<i>Asimina triloba</i>
Curved aster	<i>Aster falcatus</i>
Hairy aster	<i>Aster pubentior</i>
Prairie aster	<i>Aster turbinellus</i>
Standing milkvetch	<i>Astragalus adsurgens</i>
Bent milkvetch	<i>Astragalus distortus</i>
Missouri milkvetch	<i>Astragalus missouriensis</i>
Blue wild indigo	<i>Baptisia australis</i>
Yellow wild indigo	<i>Baptisia tinctoria</i>
Prairie moonwort	<i>Botrychium campestre</i>
Watershield	<i>Brasenia schreberi</i>
Buffalograss	<i>Buchloe dactyloides</i>
Poppy mallow	<i>Callirhoe papaver</i>
Water-starwort	<i>Callitriche heterophylla</i>
Grass pink	<i>Calopogon tuberosus</i>
Low bindweed	<i>Calystegia spithamea</i>
Clustered sedge	<i>Carex aggregata</i>
Back's sedge	<i>Carex backii</i>
Bush's sedge	<i>Carex bushii</i>
Carey's sedge	<i>Carex careyana</i>
Flowerhead sedge	<i>Carex cephalantha</i>
Field sedge	<i>Carex conoidea</i>
Crawe's sedge	<i>Carex crawei</i>
Fringed sedge	<i>Carex crinita</i>
Double sedge	<i>Carex diandra</i>
Douglas' sedge	<i>Carex douglasii</i>
Dry sedge	<i>Carex foena</i>
Thin sedge	<i>Carex gracilescens</i>
Delicate sedge	<i>Carex leptalea</i>
Mud sedge	<i>Carex limosa</i>
Hoplike sedge	<i>Carex lupuliformis</i>
Yellow sedge	<i>Carex lurida</i>
Intermediate sedge	<i>Carex media</i>
Backward sedge	<i>Carex retroflexa</i>
Richardson's sedge	<i>Carex richardsonii</i>
Rocky Mountain sedge	<i>Carex saximontana</i>
Sterile sedge	<i>Carex sterilis</i>
Soft sedge	<i>Carex tenera</i>
Deep green sedge	<i>Carex tonsa</i>
Tuckerman's sedge	<i>Carex tuckermanii</i>

Umbrella sedge	Carex umbellata
Wild oats	Chasmanthium latifolium
Pink turtlehead	Chelone obliqua
Fogg's goosefoot	Chenopodium foggii
Missouri goosefoot	Chenopodium missouriensis
Coast blite	Chenopodium rubrum
Bugbane	Cimicifuga racemosa
Hill's thistle	Cirsium hillii
Swamp thistle	Cirsium muticum
Wavy-leaved thistle	Cirsium undulatum
Western clematis	Clematis occidentalis
Blue-eyed Mary	Collinsia verna
Cancer-root	Conopholis americana
Fireberry hawthorn	Crataegus chrysocarpa
Red hawthorn	Crataegus coccinea
Two-fruited hawthorn	Crataegus disperma
Hawthorn	Crataegus pruinosa
Hawksbeard	Crepis runcinata
Prairie tea	Croton monanthogynus
Crotonopsis	Crotonopsis elliptica
Waxweed	Cuphea viscosissima
Dodder	Cuscuta indecora
Small white lady's-slipper	Cypripedium candidum
Carolina larkspur	Delphinium carolinianum
Sessile-leaved tick trefoil	Desmodium sessilifolium
Fingergrass	Digitaria filiformis
Buttonweed	Diodia teres
Purple coneflower	Echinacea purpurea
Waterwort	Elatine triandra
Purple spikerush	Eleocharis atropurpurea
Green spikerush	Eleocharis olivacea
Oval spikerush	Eleocharis ovata
Dwarf spikerush	Eleocharis parvula
Few-flowered spikerush	Eleocharis pauciflora
Wolf's spikerush	Eleocharis wolfii
Interrupted wildrye	Elymus interruptus
Dwarf scouring rush	Equisetum scirpoides
Ponygrass	Eragrostis reptans
Tall cottongrass	Eriophorum angustifolium
Tawny cottongrass	Eriophorum virginicum
Upland boneset	Eupatorium sessilifolium
Spurge	Euphorbia commutata
Missouri spurge	Euphorbia missurica
Slender fimbriistylis	Fimbristylis autumnalis
Umbrella grass	Fuirena simplex
Rough bedstraw	Galium asprellum
Small fringed gentian	Gentianopsis procera
Northern cranesbill	Geranium bicknellii
Spring avens	Geum vernum
Early cudweed	Gnaphalium purpureum
Limestone oak fern	Gymnocarpium robertianum
Bitterweed	Helenium amarum

Mud plantain	<i>Heteranthera limosa</i>
Water stargrass	<i>Heteranthera reniformis</i>
Hairy goldenaster	<i>Heterotheca villosa</i>
Common mare's-tail	<i>Hippuris vulgaris</i>
Canadian St. Johnswort	<i>Hypericum canadense</i>
Drummond St. Johnswort	<i>Hypericum drummondii</i>
White morning glory	<i>Ipomoea lacunosa</i>
Sumpweed	<i>Iva annua</i>
Alpine rush	<i>Juncus alpinus</i>
Toad rush	<i>Juncus bufonius</i>
Soft rush	<i>Juncus effusus</i>
Green rush	<i>Juncus greenii</i>
Edged rush	<i>Juncus marginatus</i>
Vasey's rush	<i>Juncus vaseyi</i>
Potato dandelion	<i>Krigia dandelion</i>
Pinweed	<i>Lechea racemulosa</i>
Duckweed	<i>Lemna perpusilla</i>
Creeping bush clover	<i>Lespedeza repens</i>
Silvery bladder-pod	<i>Lesquerella ludoviciana</i>
Wild flax	<i>Linum medium</i>
Brook lobelia	<i>Lobelia kalmii</i>
False loosestrife	<i>Ludwigia pelloides</i>
Crowfoot clubmoss	<i>Lycopodium digitatum</i>
Adder's-mouth orchid	<i>Malaxis unifolia</i>
Globe mallow	<i>Malvastrum hispidum</i>
Two-flowered melic-grass	<i>Melica mutica</i>
Ten-petaled blazingstar	<i>Mentzelia decapetala</i>
Millet grass	<i>Milium effusum</i>
Rock sandwort	<i>Minuartia michauxii</i>
Naked mitrewort	<i>Mitella nuda</i>
Scratchgrass	<i>Muhlenbergia asperifolia</i>
Water milfoil	<i>Myriophyllum heterophyllum</i>
Rough water milfoil	<i>Myriophyllum pinnatum</i>
Water milfoil	<i>Myriophyllum verticillatum</i>
Glade mallow	<i>Napaea dioica</i>
Showy evening primrose	<i>Oenothera speciosa</i>
Northern adders-tongue fern	<i>Ophioglossum vulgatum</i>
Louisiana broomrape	<i>Orobanche ludoviciana</i>
Mountain ricegrass	<i>Oryzopsis asperifolia</i>
Gattinger's panic -grass	<i>Panicum gattingeri</i>
White beardtongue	<i>Penstemon albidus</i>
Cobaea penstemon	<i>Penstemon cobaea</i>
Tube penstemon	<i>Penstemon tubiflorus</i>
Cleft phlox	<i>Phlox bifida</i>
Annual ground cherry	<i>Physalis pubescens</i>
Heart-leaved plantain	<i>Plantago cordata</i>
Wood orchid	<i>Platanthera clavellata</i>
Green fringed orchid	<i>Platanthera lacera</i>
Plains bluegrass	<i>Poa arida</i>
Chapman's bluegrass	<i>Poa chapmaniana</i>
Weak bluegrass	<i>Poa languida</i>

Bog bluegrass	<i>Poa paludigena</i>	
Meadow bluegrass	<i>Poa wolfii</i>	☾
Hairy Solomon's-seal	<i>Polygonatum pubescens</i>	
Large-leaved pondweed	<i>Potamogeton amplifolius</i>	
Ribbonleaf pondweed	<i>Potamogeton epihydrus</i>	
White-stemmed pondweed	<i>Potamogeton praelongus</i>	
Spiralled pondweed	<i>Potamogeton spirillus</i>	
Tussock pondweed	<i>Potamogeton strictifolius</i>	
Vasey's pondweed	<i>Potamogeton vaseyi</i>	
Bird's-eye primrose	<i>Primula mistassinica</i>	
Prionopsis	<i>Prionopsis ciliata</i>	
Mermaid weed	<i>Proserpinaca palustris</i>	
Dwarf cherry	<i>Prunus besseyi</i>	
Hortulan plum	<i>Prunus hortulana</i>	☾
Sand cherry	<i>Prunus pumila</i>	
Lemon scurfpea	<i>Psoralea lanceolata</i>	
Crowfoot	<i>Ranunculus circinatus</i>	
Gmelin's crowfoot	<i>Ranunculus gmelinii</i>	
Buckthorn	<i>Rhamnus alnifolia</i>	
Dwarf sumac	<i>Rhus copallina</i>	
Northern gooseberry	<i>Ribes hirtellum</i>	
Yellow cress	<i>Rorippa sinuata</i>	
Swamp rose	<i>Rosa palustris</i>	
Tooth-cup	<i>Rotala ramosior</i>	
Dewberry	<i>Rubus hispidus</i>	
Western dock	<i>Rumex occidentalis</i>	
Widgeon grass	<i>Ruppia maritima</i>	☾
Prairie rose gentian	<i>Sabatia campestris</i>	
Sage willow	<i>Salix candida</i>	
Sassafras	<i>Sassafras albidum</i>	
Tumblegrass	<i>Schedonnardus paniculatus</i>	
Scheuchzeria	<i>Scheuchzeria palustris</i>	
Sensitive briar	<i>Schrankia nuttallii</i>	
Hall's bulrush	<i>Scirpus hallii</i>	
Prairie bulrush	<i>Scirpus maritimus</i>	
Pedicelled bulrush	<i>Scirpus pedicellatus</i>	
Smith's bulrush	<i>Scirpus smithii</i>	
Torrey's bulrush	<i>Scirpus torreyi</i>	
Veiny skullcap	<i>Scutellaria nervosa</i>	☾
Wild stonecrop	<i>Sedum ternatum</i>	
Rock spikemoss	<i>Selaginella rupestris</i>	
Butterweed	<i>Senecio glabellus</i>	
False golden ragwort	<i>Senecio pseud aureus</i>	
Knotweed bristlegrass	<i>Setaria geniculata</i>	
Virginia rockcress	<i>Sibara virginica</i>	
Prairie dock	<i>Silphium terebinthinaceum</i>	
Burreed	<i>Sparganium androcladum</i>	
Great plains ladies-tresses	<i>Spiranthes magnicamporum</i>	
Clandestine dropseed	<i>Sporobolus clandestinus</i>	
Rough hedge-nettle	<i>Stachys aspera</i>	
Needle-and-thread	<i>Stipa comata</i>	☾

White coralberry	<i>Symphoricarpos albus</i>
Eared false foxglove	<i>Tomanthera auriculata</i>
Spiderwort	<i>Tradescantia virginiana</i>
Humped bladderwort	<i>Utricularia gibba</i>
Flat-leaved bladderwort	<i>Utricularia intermedia</i>
Small bladderwort	<i>Utricularia minor</i>
Valerian	<i>Valeriana edulis</i>
American brookline	<i>Veronica americana</i>
Marsh speedwell	<i>Veronica scutellata</i>
Maple-leaved arrowwood	<i>Viburnum acerifolium</i>
Black arrowwood	<i>Viburnum molle</i>
Black haw	<i>Viburnum prunifolium</i>
Spurred violet	<i>Viola adunca</i>
Lance-leaved violet	<i>Viola lanceolata</i>
Macloskey's violet	<i>Viola macloskeyi</i>
Pale violet	<i>Viola striata</i>
Summer grape	<i>Vitis aestivalis</i>
Frost grape	<i>Vitis vulpina</i>

571—77.4(481B) Exemptions. Notwithstanding the foregoing list and the prohibitions in Iowa Code chapter 481B, a person may import, export, possess, transport, purchase, barter, buy, sell, offer to sell, hold for processing or process a species of animal or plant which is listed as endangered or threatened on the state list or as listed in the Code of Federal Regulations, Title 50, part 17, as amended to December 30, 1991, according to the following rules:

77.4(1) Trophies lawfully taken by persons licensed to hunt or fish (not including trapping or commercial harvest licenses) in another state, country or territory may be brought into this state and possessed, held for processing and processed but may not be sold or offered for sale.

77.4(2) Furs or skins of wildlife species appearing on the state list of endangered and threatened species which were lawfully taken or purchased in another state, country or territory may be imported, exported, purchased, possessed, bartered, offered for sale, sold, held for processing, or processed in this state if they are tagged or permanently marked by the state, country, or territory of origin.

77.4(3) Species of live animals appearing on the state list of endangered and threatened species may be imported, exported, possessed, purchased, bartered, offered for sale, or sold under the terms of a scientific collecting permit or educational project permit issued pursuant to Iowa Code section 481A.6 and administrative rules adopted by the department.

77.4(4) Plants, seeds, roots, and other parts of plants which appear on the state list of endangered and threatened plants which were lawfully taken or purchased in another state, country or territory may be imported, exported, purchased, possessed, offered for sale or sold in this state.

77.4(5) A part or product of a species of fish or wildlife appearing on the state list of endangered or threatened species which enters the state from another state or from a point outside the territorial limits of the United States may enter, be transported, exported, possessed, sold, offered for sale, held for processing or processed in accordance with the terms of a permit issued by the agency of jurisdiction in the state of origin or, if entering from outside the United States, a federal permit issued by the United States government. If proper documentation is available, a person may buy or offer to buy a part or product of a species of fish or wildlife appearing on the state or federal lists as long as it is imported from a legal source outside the state and proper documentation is provided.

77.4(6) If a person possesses a species of fish or wildlife or a part, product or offspring of such a species, proper documentation such as receipt of purchase and the permit from the state of origin or the U.S. government must be presented upon request of any conservation officer. Failure to produce such documentation is a violation of this chapter and will constitute grounds for forfeiture to the Iowa DNR.

77.4(7) A species of plant, fish or wildlife appearing on the state list of endangered and threatened species may be collected, held, salvaged and possessed under the terms of a scientific collecting permit issued pursuant to Iowa Code section 481A.6 and administrative rules adopted by the department.

This rule is intended to implement Iowa Code chapter 481B.

[Filed 8/31/77, Notice 7/27/77—published 9/21/77, effective 10/26/77]

[Filed 11/2/84, Notice 8/1/84—published 11/21/84, effective 1/1/85]

[Filed without Notice 12/12/86—published 12/31/86, effective 2/4/87]

[Filed 11/10/88, Notice 8/24/88—published 11/30/88, effective 1/4/89]

[Filed 2/11/94, Notice 10/27/93—published 3/2/94, effective 4/6/94]

- 40.27(272C) Duties of peer review committees
- 40.28(272C) Board review of recommendations
- 40.29(272C) Reporting of judgments or settlements
- 40.30(272C) Investigation of reports of judgments and settlements
- 40.31(272C) Reporting of acts or omissions
- 40.32(272C) Failure to report licensee
- 40.33(272C) Immunities
- 40.34(272C) Doctor-patient privileged communications
- 40.35(272C) Confidentiality of investigative files
- 40.36(151) Acupuncture
- 40.37(151) Nonprofit nutritional product sales
- 40.38(151) Chiropractic insurance consultant
- 40.39(151) Adjunctive procedures
- 40.40(151) Physical examination
- 40.41(151) Gonad shielding
- 40.42 to 40.46 Reserved

DISCIPLINARY PROCEDURE

- 40.47(147,151,17A,272C) Disciplinary procedure
 - 40.48 to 40.50 Reserved
- PRINCIPLES OF PROFESSIONAL ETHICS
- 40.51(147,272C) Principles of chiropractic ethics

PROCEDURES FOR USE OF CAMERAS AND RECORDING DEVICES AT OPEN MEETINGS

- 40.52(151,272C) Conduct of persons attending meetings
- 40.53 to 40.60 Reserved

CONTINUING EDUCATION

- 40.61(272C) Definitions
- 40.62(272C) Continuing education requirements
- 40.63(151) Standards for approval
- 40.64(151) Approval of sponsors, programs, and activities
- 40.65(272C) Hearings
- 40.66(272C) Reports and records
- 40.67(272C) Attendance record
- 40.68(272C) Attendance report
- 40.69(272C) Exemptions for inactive practitioners
- 40.70(272C) Reinstatement of inactive practitioners
- 40.71(272C) Exemptions for active practitioners

- 40.72(272C) Physical disability, illness or exemption of continuing education
- 40.73(272C) Reinstatement of lapsed license

CHAPTERS 41 to 48
Reserved

CHAPTER 49
PUBLIC RECORDS AND FAIR
INFORMATION PRACTICES

(Uniform Rules)

- 49.1(17A,22) Definitions
- 49.14(17A,22) Personally identifiable information

CHAPTERS 50 to 59
Reserved

COSMETOLOGY

CHAPTER 60

LICENSURE OF COSMETOLOGISTS,
ELECTROLOGISTS, ESTHETICIANS,
MANICURISTS, NAIL TECHNOLOGISTS,
AND INSTRUCTORS OF COSMETOLOGY
ARTS AND SCIENCES

- 60.1(157) Definitions
- 60.2(157) Requirements for licensure to practice cosmetology
- 60.3(157) Licensure of applicants licensed in cosmetology arts and sciences in other states and countries
- 60.4(157) Cosmetology arts and sciences examination
- 60.5(157) Requirements for license to practice electrology
- 60.6(157) Requirements for license to practice esthetics
- 60.7(157) Requirements for license to practice manicuring
- 60.8(157) Requirements for license to practice nail technology
- 60.9(157) Core life sciences curriculum
- 60.10(157) Requirements for instructor's license
- 60.11(157) Temporary permits
- 60.12(157) Reinstatement of inactive (exempt) practitioners of cosmetology arts and sciences
- 60.13(272C) Reinstatement of lapsed license
- 60.14(157) Display of license
- 60.15(157) Notification of change of name or mailing address

**CHAPTER 61
LICENSURE OF SALONS AND SCHOOLS
OF COSMETOLOGY ARTS
AND SCIENCES**

- 61.1(157) Salon licensing
- 61.2(157) School of cosmetology arts and sciences—licensing
- 61.3(157) Courses of study
- 61.4(157) Instructors
- 61.5(157) Salons shall not be operated in connection with the school
- 61.6(157) Students

**CHAPTER 62
FEES**

- 62.1(147,157) All fees are nonrefundable

**CHAPTER 63
REQUIREMENTS FOR SALONS AND
SCHOOLS OF COSMETOLOGY ARTS
AND SCIENCES**

- 63.1(157) Rules and inspection reports
- 63.2(157) License
- 63.3(157) Proper quarters
- 63.4(157) Sanitation
- 63.5(157) Particular aspects of sanitizing
- 63.6(157) Water
- 63.7(157) Laundry and storage facilities
- 63.8(157) Workstands
- 63.9(157) Pets
- 63.10(157) Clients
- 63.11(157) Records
- 63.12(157) Electrology requirements and sanitation
- 63.13(157) Violations

**CHAPTER 64
COSMETOLOGY ARTS AND SCIENCES
CONTINUING EDUCATION**

- 64.1(272C) Continuing education requirements
- 64.2(272C) Report of licensee
- 64.3(272C) Licensed instructors
- 64.4(272C) Physical and mental disability or illness
- 64.5(272C) Exemptions for inactive licensees
- 64.6(272C) Standards of approval
- 64.7(272C) Accreditation of sponsors
- 64.8(272C) Attendance record

**CHAPTER 65
DISCIPLINARY PROCEDURES FOR
COSMETOLOGY ARTS AND SCIENCES
LICENSEES**

- 65.1(272C) Complaint
- 65.2(272C) Report of malpractice claims or actions
- 65.3(272C) Investigation of complaints or malpractice claims
- 65.4(272C) Alternative procedure
- 65.5(272C) License denial
- 65.6(272C) Notice of hearing
- 65.7(272C) Hearings open to public
- 65.8(272C) Hearings
- 65.9(272C) Appeal
- 65.10(272C) Transcript
- 65.11(272C) Publications of decisions
- 65.12(272C) Discipline
- 65.13(272C) Peer review committee
- 65.14 to 65.100 Reserved
- 65.101(272C) Conduct of persons attending meetings

**CHAPTER 66
AGENCY PROCEDURE FOR
RULE MAKING
(Uniform Rules)**

- 66.3(17A) Public rule-making docket
- 66.4(17A) Notice of proposed rule making
- 66.5(17A) Public participation
- 66.6(17A) Regulatory flexibility analysis
- 66.10(17A) Exemptions from public rule-making procedures
- 66.11(17A) Concise statement of reasons
- 66.13(17A) Agency rule-making record

**CHAPTER 67
PETITIONS FOR RULE MAKING
(Uniform Rules)**

- 67.1(17A) Petition for rule making
- 67.3(17A) Inquiries

**CHAPTER 68
DECLARATORY RULINGS
(Uniform Rules)**

- 68.1(17A) Petition for declaratory ruling
- 68.3(17A) Inquiries

CHAPTER 31
CONTINUING EDUCATION AND DISCIPLINARY PROCESS

645—31.1(147,154D,272C) to 31.6(147,154D,272C) Reserved.

645—31.7(147,154D,272C) Complaint. A consumer complaint alleging a licensee's professional misconduct may be made by any person to the Board of Behavioral Science Examiners, Professional Licensure, Iowa Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075. The complaint shall be in writing and shall include complainant's address and phone number, be signed and dated by the complainant, shall identify the licensee, and shall give the address and any other information about the licensee which the complainant may have concerning the matter.

645—31.8(147,154D,272C) Grounds for discipline. The board may revoke or suspend a license, place a licensee on probation, impose a civil penalty which shall not exceed \$1000, or impose other discipline described in Iowa Code section 272C.3(2) for any of the following reasons:

31.8(1) All grounds listed in Iowa Code sections 147.55 and 272C.10.

31.8(2) Violations of rules promulgated by the board.

31.8(3) For marital and family therapists, violation of the code of conduct for marital and family therapists.

31.8(4) For mental health counselors, the code of conduct for mental health counselors.

31.8(5) Fraud in procuring a license.

31.8(6) Professional incompetency.

31.8(7) Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of the profession or engaging in unethical conduct or practice harmful or detrimental to the public. Proof of actual injury need not be established.

31.8(8) Habitual intoxication or addiction to the use of drugs.

31.8(9) Conviction of a felony related to the profession or occupation of the licensee or the conviction of any felony that would affect the licensee's ability to practice within a profession. A copy of the record of conviction or plea of guilty shall be conclusive evidence.

31.8(10) Fraud in representations as to skill or ability.

31.8(11) Use of untruthful or improbable statements in advertisements.

31.8(12) Willful or repeated violations of the provisions of Iowa Code chapter 147 or 154D.

31.8(13) Personal disqualifications:

a. Mental or physical inability reasonably related to and adversely affecting the licensee's ability to practice in a safe and competent manner.

b. Involuntary commitment for treatment of mental illness, drug addiction or alcoholism.

31.8(14) Holding oneself out as a licensee when the license has been suspended or revoked.

31.8(15) Revocation, suspension, or other disciplinary action taken by a licensing authority of another state, territory, or country; or failure by the licensee to report in writing to the Iowa board a revocation, suspension, or other disciplinary action taken by a licensing authority of another state, territory, or country.

31.8(16) Negligence by the licensee in the practice of the profession, which is a failure to exercise due care including negligent delegation to or supervision of employees or other individuals, whether or not injury results; or any conduct, practice or conditions which impair the ability to safely and skillfully practice the profession.

31.8(17) Prohibited acts consisting of the following:

a. Permitting another person to use the license for any purpose.

b. Practice outside the scope of the license.

c. Obtaining, possessing, or attempting to obtain or possess a controlled substance without lawful authority; or selling, prescribing, giving away, or administering controlled substances.

- d. Verbally or physically abusing clients.
- e. Any sexual intimidation or sexual relationship between a licensee and a client.

31.8(18) Unethical business practices, consisting of any of the following:

- a. False or misleading advertising.
- b. Betrayal of a professional confidence.
- c. Falsifying client's records.

31.8(19) Failure to report to the board a change of name or address within 30 days after it occurs.

31.8(20) Failure to comply with a subpoena issued by the board, or to otherwise fail to cooperate with an investigation conducted by the board.

31.8(21) Failure to report to the board any violation by another licensee of the reasons for disciplinary action as listed in this rule.

645—31.9(147,154D,272C) Rules of conduct for marital and family therapists.

31.9(1) Responsibility to clients. Marital and family therapists advance the welfare of families and individuals. They respect the rights of those persons seeking their assistance and make reasonable efforts to ensure that their services are used appropriately.

a. Marital and family therapists do not discriminate against or refuse professional service to anyone on the basis of race, gender, religion, national origin, or sexual orientation.

b. Marital and family therapists are aware of their influential position with respect to clients, and they avoid exploiting the trust and dependency of such persons. Therapists, therefore, make every effort to avoid dual relationships with clients that could impair professional judgment or increase the risk of exploitation. When a dual relationship cannot be avoided, therapists take appropriate professional precautions to ensure judgment is not impaired and no exploitation occurs. Examples of such dual relationships include, but are not limited to, business or close personal relationships with clients. Sexual intimacy with clients is prohibited. Sexual intimacy with former clients for two years following the termination of therapy is prohibited.

c. Marital and family therapists do not use their professional relationships with clients to further their own interests.

d. Marital and family therapists respect the right of clients to make decisions and help them to understand the consequences of these decisions. Therapists clearly advise a client that a decision on marital status is the responsibility of the client.

e. Marital and family therapists continue therapeutic relationships only so long as it is reasonably clear that clients are benefiting from the relationship.

f. Marital and family therapists assist persons in obtaining other therapeutic services if the therapist is unable or unwilling, for appropriate reasons, to provide professional help.

g. Marital and family therapists do not abandon or neglect clients in treatment without making reasonable arrangements for the continuation of such treatment.

h. Marital and family therapists obtain written, informed consent from clients before videotaping, audiorecording, or permitting third-party observation.

31.9(2) Confidentiality. Marital and family therapists have unique confidentiality concerns because the client in a therapeutic relationship may be more than one person. Therapists respect and guard confidences of each individual client.

a. Marital and family therapists may not disclose client confidences except:

- (1) As mandated by law;
- (2) To prevent a clear and immediate danger to a person or persons;
- (3) Where the therapist is a defendant in a civil, criminal, or disciplinary action arising from the therapy (in which case client confidences may be disclosed only in the course of that action); or
- (4) If there is a waiver previously obtained in writing, and then such information may be revealed only in accordance with the terms of the waiver. In circumstances where more than

one person in a family receives therapy, each such family member who is legally competent to execute a waiver must agree to the waiver required by this subparagraph. Without such a waiver from each family member legally competent to execute a waiver, a therapist cannot disclose information received from any family member.

b. Marital and family therapists use client or clinical materials in teaching, writing, and public presentations only if a written waiver has been obtained in accordance with 31.9(2)“a”(4), or when appropriate steps have been taken to protect client identity and confidentiality.

c. Marital and family therapists store or dispose of client records in ways that maintain confidentiality.

31.9(3) Professional competence and integrity. Marital and family therapists maintain high standards of professional competence and integrity.

a. Marital and family therapists seek appropriate professional assistance for their personal problems or conflicts that may impair work performance or clinical judgment.

b. Marital and family therapists, as teachers, supervisors, and researchers, are dedicated to high standards of scholarship and present accurate information.

c. Marital and family therapists remain abreast of new developments in family therapy knowledge and practice through educational activities.

d. Marital and family therapists do not engage in sexual or other harassment or exploitation of clients, students, trainees, supervisees, employees, colleagues, research subjects, or actual or potential witnesses or complainants in investigations and ethical proceedings.

e. Marital and family therapists do not diagnose, treat, or advise on problems outside the recognized boundaries of their competence.

f. Marital and family therapists make efforts to prevent the distortion or misuse of their clinical and research findings.

g. Marital and family therapists, because of their ability to influence and alter the lives of others, exercise special care when making public their professional recommendations and opinions through testimony or other public statements.

31.9(4) Responsibility to students, employees, and supervisees. Marital and family therapists do not exploit the trust and dependency of students, employees, and supervisees.

a. Marital and family therapists are aware of their influential position with respect to students, employees, and supervisees, and they avoid exploiting the trust and dependency of such persons. Therapists, therefore, make every effort to avoid dual relationships that could impair professional judgment or increase the risk of exploitation. When a dual relationship cannot be avoided, therapists take appropriate professional precautions to ensure judgment is not impaired and no exploitation occurs. Examples of such dual relationships include, but are not limited to, business or close personal relationships with students, employees, or supervisees. Provision of therapy to students, employees, or supervisees is prohibited. Sexual intimacy with students or supervisees is prohibited.

b. Marital and family therapists do not permit students, employees, or supervisees to perform or to hold themselves out as competent to perform professional services beyond their training, level of experience, and competence.

c. Marital and family therapists do not disclose supervisee confidences except:

(1) As mandated by law;

(2) To prevent a clear and immediate danger to a person or persons;

(3) Where the therapist is a defendant in a civil, criminal, or disciplinary action arising from the supervision (in which case supervisee confidences may be disclosed only in the course of that action);

(4) In educational or training settings where there are multiple supervisors, and then only to other professional colleagues who share responsibility for the training of the supervisee; or

(5) If there is a waiver previously obtained in writing, and then such information may be revealed only in accordance with the terms of the waiver.

31.9(5) Responsibility to research participants. Investigators respect the dignity and protect the welfare of participants in research and are aware of federal and state laws and regulations and professional standards governing the conduct of research.

a. Investigators are responsible for making careful examinations of ethical acceptability in planning studies. To the extent that services to research participants may be compromised by participation in research, investigators seek the ethical advice of qualified professionals not directly involved in the investigation and observe safeguards to protect the rights of research participants.

b. Investigators requesting participants' involvement in research inform them of all aspects of the research that might reasonably be expected to influence willingness to participate. Investigators are especially sensitive to the possibility of diminished consent when participants are also receiving clinical services, have impairments which limit understanding or communication, or when participants are children.

c. Investigators respect participants' freedom to decline participation in or to withdraw from a research study at any time. This obligation requires special thought and consideration when investigators or other members of the research team are in positions of authority or influence over participants. Marital and family therapists, therefore, make every effort to avoid dual relationships with research participants that could impair professional judgment or increase the risk of exploitation.

d. Information obtained about a research participant during the course of an investigation is confidential unless there is a waiver previously obtained in writing. When the possibility exists that others, including family members, may obtain access to such information, this possibility, together with the plan for protecting confidentiality, is explained as part of the procedure for obtaining informed consent.

31.9(6) Responsibility to the profession. Marital and family therapists respect the rights and responsibilities of professional colleagues and participate in activities which advance the goals of the profession.

a. Marital and family therapists remain accountable to the standards of the profession when acting as members or employees of organizations.

b. Marital and family therapists assign publication credit to those who have contributed to a publication in proportion to their contributions and in accordance with customary professional publication practices.

c. Marital and family therapists who are the authors of books or other materials that are published or distributed cite persons to whom credit for original ideas is due.

d. Marital and family therapists who are the authors of books or other materials published or distributed by an organization take reasonable precautions to ensure that the organization promotes and advertises the materials accurately and factually.

31.9(7) Financial arrangements. Marital and family therapists make financial arrangements with clients, third-party payers, and supervisees that are reasonably understandable and conform to accepted professional practices.

a. Marital and family therapists do not offer or accept payment for referrals.

b. Marital and family therapists do not charge excessive fees for services.

c. Marital and family therapists disclose their fees to clients and supervisees at the beginning of services.

d. Marital and family therapists represent facts truthfully to clients, third-party payers, and supervisees regarding services rendered.

31.9(8) Advertising. Marital and family therapists engage in appropriate informational activities, including those that enable laypersons to choose professional services on an informed basis.

a. Marital and family therapists accurately represent their competence, education, training, and experience relevant to their practice of marital and family therapy.

b. Marital and family therapists do not use a name which could mislead the public concerning the identity, responsibility, source, and status of those practicing under that name and do not hold themselves out as being partners or associates of a firm if they are not.

c. Marital and family therapists do not use any professional identification (such as a business card, office sign, letterhead, or telephone or association directory listing) if it includes a statement or claim that is false, fraudulent, misleading, or deceptive. A statement is false, fraudulent, misleading, or deceptive if it (1) contains a material misrepresentation of fact; (2) fails to state any material fact necessary to make the statement, in light of all circumstances, not misleading; or (3) is intended to or is likely to create an unjustified expectation.

d. Marital and family therapists correct, wherever possible, false, misleading, or inaccurate information and representations made by others concerning the therapist's qualifications, services, or products.

e. Marital and family therapists make certain that the qualifications of persons in their employ are represented in a manner that is not false, misleading, or deceptive.

f. Marital and family therapists may represent themselves as specializing within a limited area of marital and family therapy, but only if they have the education and supervised experience in settings which meet recognized professional standards to practice in that specialty area. Professional association designations may only be represented by persons who have been qualified by the respective association, and may only be represented as permitted by that professional association.

645—31.10(147,154D,272C) Rules of conduct for mental health counselors. Mental health counselors believe in the dignity and worth of the individual. They are committed to increasing knowledge of human behavior and understanding of themselves and others. While pursuing these endeavors, they make every reasonable effort to protect the welfare of those who seek their services or of any subject that may be the object of study. They use their skills only for purposes consistent with these values and do not knowingly permit their misuse by others. While demanding for themselves freedom of inquiry and communication, mental health counselors accept the responsibility this freedom confers: competence, objectivity in the application of skills and concern for the best interest of clients, colleagues, and society in general.

31.10(1) Responsibility. In their commitment to the understanding of human behavior, mental health counselors value objectivity and integrity, and in providing services they maintain the highest standards. They accept responsibility for the consequences of their work and make every effort to ensure that their services are used appropriately.

a. Mental health counselors accept ultimate responsibility for selecting appropriate areas for investigation and the methods relevant to minimize the possibility that their findings will be misleading. They provide thorough discussion of the limitations of their data and alternative hypotheses, especially where their work touches on social policy or might be misconstrued to the detriment of specific age, sex, ethnic, socioeconomic, or other social categories. In publishing reports of their work, they never discard observations that may modify the interpretation of results. Mental health counselors take credit only for the work they have actually done. In pursuing research, mental health counselors ascertain that their efforts will not lead to changes in individuals or organizations unless such changes are part of the agreement at the time of obtaining informed consent. Mental health counselors clarify in advance the expectations for sharing and utilizing research data. They avoid dual relationships which may limit objectivity, whether theoretical, political, or monetary, so that interference with data, subjects, and milieu is kept to a minimum.

b. As employees of an institution or agency, mental health counselors have the responsibility of remaining alert to institutional pressures which may distort reports of counseling findings or use them in ways counter to the promotion of human welfare.

c. As teachers, mental health counselors recognize their primary obligation to help others acquire knowledge and skill. They maintain high standards of scholarship and objectivity by

presenting counseling information fully and accurately and by giving appropriate recognition to alternative viewpoints.

d. As practitioners, mental health counselors know that they bear heavy social responsibility because their recommendations and professional actions may alter the lives of others. They, therefore, remain fully cognizant of their impact and are alert to personal, social, organizational, financial or political situations or pressures which might lead to misuse of their influence.

e. Mental health counselors provide reasonable and timely feedback to employees, trainees, supervisors, students, and others whose work they may evaluate.

31.10(2) Competence. The maintenance of high standards of professional competence is a responsibility shared by all mental health counselors in the interest of the public and the profession as a whole. Mental health counselors recognize the boundaries of their competence and the limitations of their techniques and only provide services, use the techniques, or offer opinions as professionals that meet recognized standards. Throughout their careers, mental health counselors maintain knowledge of professional information related to the services they render.

a. Mental health counselors accurately represent their competence, education, training, and experience.

b. As teachers, mental health counselors perform their duties based on careful preparation so that their instruction is accurate, up-to-date and scholarly.

c. Mental health counselors recognize the need for continuing training to prepare themselves to serve persons of all ages and cultural backgrounds. They are open to new procedures and sensitive to differences between groups of people and changes in expectations and values over time.

d. Mental health counselors with the responsibility for decisions involving individuals or policies based on test results should know and understand literature relevant to the tests used and testing problems with which they deal.

e. Mental health counselors and practitioners recognize that their effectiveness depends in part upon their ability to maintain sound interpersonal relations, that temporary or more enduring aberrations on their part may interfere with their abilities or distort their appraisals of others. Therefore, they refrain from undertaking any activity in which their personal problems are likely to lead to inadequate professional services or harm to a client, or, if they are already engaged in such activity when they become aware of their personal problems, they would seek competent professional assistance to determine whether they should suspend or terminate services to one or all of their clients.

31.10(3) Moral and legal standards. Mental health counselors' moral, ethical, and legal standards of behavior are a personal matter to the same degree as they are for any other citizen, except as these may compromise the fulfillment of their professional responsibilities, or reduce the trust in counseling, or counselors, held by the general public. Regarding their own behavior, mental health counselors should be aware of the prevailing community standards and of the possible impact upon the quality of professional services provided by their conformance to or deviation from these standards. Mental health counselors should also be aware of the possible impact of their public behavior upon the ability of colleagues to perform their professional duties.

a. Mental health counselors shall avoid public behavior that is clearly in violation of accepted moral and legal standards.

b. To protect students, counselor/teachers must be aware of the diverse backgrounds of students and, when dealing with topics that may give offense, will see that the material is treated objectively, that it is clearly relevant to the course, and that it is treated in a manner for which the student is prepared.

c. As employees, mental health counselors refuse to participate in an employer's practices which are inconsistent with the moral and legal standards established by federal or state legis-

lation regarding the treatment of employees or of the public. In particular and for example, mental health counselors will not condone practices which result in illegal or otherwise unjustifiable discrimination on the basis of race, sex, religion or national origin in hiring, promotion, or training.

d. In providing counseling services to clients, mental health counselors avoid any action that will violate or diminish the legal and civil rights of clients or of others who may be affected by the action.

e. Sexual conduct, not limited to sexual intercourse, between mental health counselors and clients is specifically in violation of this code of conduct. This does not, however, prohibit the use of explicit instructional aids including films and videotapes. Such use is within accepted practices of trained and competent sex therapists.

31.10(4) Public statements. Mental health counselors in their professional roles may be expected or required to make public statements providing counseling information and professional opinions, or supply information about the availability of counseling products and services. In making such statements, mental health counselors take full account of the limits and uncertainties of present counseling knowledge and techniques. They represent, as objectively as possible, their professional qualifications, affiliations, and functions, as well as those of the institutions or organizations with which the statements may be associated. All public statements, announcements of services, and promotional activities should serve the purpose of providing informed judgments and choices on matters that concern it.

a. When announcing professional services, mental health counselors limit the information to: name, highest relevant degree conferred, certification or licensure, address, telephone number, office hours, cost of services, and brief explanation of the types of services offered but not evaluative as to their quality or uniqueness. Such announcements will not contain testimonial by implication. They will not claim uniqueness of skill of methods beyond those available to others in the profession unless determined by acceptable and public scientific evidence.

b. In announcing the availability of counseling services or products, mental health counselors will not display their affiliations with organizations or agencies in a manner that implies sponsorship or certification of the organization or agency. They will not name their employer or professional associations unless the services are in fact to be provided by or under the responsible, direct supervision and continuing control of such organizations or agencies.

c. Mental health counselors associated with the development or promotion of counseling devices, books, or other products offered for commercial sale will make every effort to ensure that announcements and advertisements are presented in a professional and factually informative manner without unsupported claims of superiority. Any claims must be supported by scientifically acceptable evidence or by willingness to aid and encourage independent professional scrutiny or scientific test.

d. Mental health counselors engaged in radio, television or other public media activities will not participate in commercial announcements recommending to the general public the purchase or use of any proprietary or single-source product or service.

e. Mental health counselors who describe counseling or the services of professional counselors to the general public accept the obligation to present the material fairly and accurately, avoiding misrepresentation through sensationalism, exaggeration or superficiality. Mental health counselors will be guided by the primary obligation to aid the public in forming their own informed judgments, opinions and choices.

f. As teachers, mental health counselors ensure that statements in catalogs and course outlines are accurate, particularly in terms of subject matter to be covered, basis for grading, and nature of classroom experiences. As practitioners providing private services, mental health counselors avoid improper, direct solicitation of clients and the conflict of interest inherent therein.

g. Mental health counselors accept the obligation to correct others who may represent their professional qualifications or associations with products or services in a manner incompatible with these guidelines.

31.10(5) Confidentiality. Mental health counselors have a primary obligation to safeguard information about individuals obtained in the course of teaching, practice, or research. Personal information is communicated to others only with the person's written consent or in those circumstances where there is clear and imminent danger to the client, to others or to society. Disclosures of counseling information are restricted to what is necessary, relevant, and verifiable.

a. All materials in the official record shall be shared with the client, who shall have the right to decide what information may be shared with anyone beyond the immediate provider of service and to be informed of the implications of the materials to be shared.

b. The anonymity of clients served in public and other agencies is preserved, if at all possible, by withholding names and personal identifying data. If external conditions require reporting such information, the client shall be so informed.

c. Information received in confidence by one agency or person shall not be forwarded to another person or agency without the client's written permission.

d. Service providers have a responsibility to ensure the accuracy and to indicate the validity of data shared with third parties.

e. Case reports presented in classes, professional meetings, or in publications shall be so disguised that no identification is possible, unless the client or responsible authority has read the report and agreed in writing to its presentation or publication.

f. Counseling reports and records are maintained under conditions of security, and provisions are made for their destruction when they have outlived their usefulness. Mental health counselors ensure that privacy and confidentiality are maintained by all persons in their employ or volunteers and community aides.

g. Mental health counselors who ask that an individual reveal personal information in the course of interviewing, testing or evaluation, or who allow such information to be divulged, do so only after making certain that the person or authorized representative is fully aware of the purposes of the interview, testing or evaluation and of the ways in which the information will be used.

h. Sessions with clients are taped or otherwise recorded only with their written permission or the written permission of a responsible guardian. Even with guardian written consent, one should not record a session against the expressed wishes of a client.

i. Where a child or adolescent is the primary client, the interest of the minor shall be paramount.

j. In work with families, the rights of each family member should be safeguarded. The provider of service also has the responsibility to discuss the contents of the record with the parent or child, as appropriate, and to keep separate those parts which should remain the property of each family member.

31.10(6) Welfare of the consumer. Mental health counselors respect the integrity and protect the welfare of the people and groups with whom they work. When there is a conflict of interest, mental health counselors clarify the nature and direction of their loyalties and responsibilities and keep all parties informed of their commitments. Mental health counselors fully inform consumers as to the purpose and nature of any evaluative, treatment, educational or training procedure, and they freely acknowledge that clients, students, or subjects have freedom of choice with regard to participation.

a. Mental health counselors are continually cognizant both of their own needs and of their inherently powerful position vis-a-vis clients, in order to avoid exploiting the client's trust and dependency. Mental health counselors make every effort to avoid dual relationships with clients or relationships which might impair their professional judgment or increase the risk of client exploitation. Examples of such dual relationships include treating an employee or supervisor, treating a close friend or family relative and sexual relationships with clients.

b. Where mental health counselors' work with members of an organization goes beyond reasonable conditions of employment, mental health counselors recognize possible conflicts of interest that may arise. When such conflicts occur, mental health counselors clarify the nature of the conflict and inform all parties of the nature and directions of the loyalties and responsibilities involved.

c. When acting as supervisors, trainers, or employers, mental health counselors accord recipients informed choice, confidentiality, and protection from physical and mental harm.

d. Financial arrangements in professional practice are in accord with professional standards that safeguard the best interests of the client and that are clearly understood by the client in advance of billing. This may best be done by the use of a contract. Mental health counselors are responsible for assisting clients in finding needed services in those instances where payment of the usual fee would be a hardship. No commission or rebate or other form of remuneration may be given or received for referral of clients for professional services, whether by an individual or by an agency.

e. Mental health counselors are responsible for making their services readily accessible to clients in a manner that facilitates the client's ability to make an informed choice when selecting a service provider. This responsibility includes a clear, written description of what the client may expect in the way of tests, reports, billing, therapeutic regime and schedules.

f. Mental health counselors who find that their services are not beneficial to the client have the responsibility to make this known to the responsible persons.

g. Mental health counselors are accountable to the parties who refer and support counseling services and to the general public and are cognizant of the indirect or long-range effects of their intervention.

h. The mental health counselor attempts to terminate a private service or consulting relationship when it is reasonably clear to the mental health counselor that the consumer is not benefiting from it. If a consumer is receiving services from another mental health professional, mental health counselors do not offer their services directly to the consumer without informing the professional persons already involved in order to avoid confusion and conflict for the consumer.

31.10(7) Professional relationships. Mental health counselors act with due regard to the needs and feelings of their colleagues in counseling and other professions. Mental health counselors respect the prerogatives and obligations of the institutions or organizations with which they are associated.

a. Mental health counselors understand the areas of competence of related professions and make full use of other professional, technical, and administrative resources which best serve the interests of consumers. The absence of formal relationships with other professional workers does not relieve mental health counselors from the responsibility of securing for their clients the best possible professional service; indeed, this circumstance presents a challenge to the professional competence of mental health counselors, requiring special sensitivity to problems outside their areas of training, and foresight, diligence, and tact in obtaining the professional assistance needed by clients.

b. Mental health counselors know and take into account the traditions and practices of other professional groups with which they work and cooperate fully with members of such groups when research, services, and other functions are shared or in working for the benefit of public welfare.

c. Mental health counselors strive to provide positive conditions for those they employ, and they spell out clearly the conditions of such employment. They encourage their employees to engage in activities that facilitate their further professional development.

d. Mental health counselors respect the viability, reputation, and the proprietary right of organizations which they serve. Mental health counselors show due regard for the interest of their present or prospective employers. In those instances where they are critical of policies, they attempt to effect change by constructive action within the organization.

e. In the pursuit of research, mental health counselors give sponsoring agencies, host institutions, and publication channels the same respect and opportunity for giving informed consent that they accord to individual research participants. They are aware of their obligation to future research and ensure that host institutions are given feedback information and proper acknowledgment.

f. Credit is assigned to those who have contributed to a publication, in proportion to their contribution.

31.10(8) Utilization of assessment techniques. In the development, publication, and utilization of counseling assessment techniques, mental health counselors follow relevant standards. Individuals examined, or their legal guardians, have the right to know the results, the interpretations made and, where appropriate, the particulars on which final judgment was based. Test users should take precautions to protect test security but not at the expense of an individual's right to understand the basis for decisions that adversely affect that individual or that individual's dependents.

a. The client has the right to have, and the provider has the responsibility to give, explanations of test results in language the client can understand.

b. When a test is published or otherwise made available for operational use, it should be accompanied by a manual (or other published or readily available information) that makes every reasonable effort to describe fully the development of the test, the rationale, specifications followed in writing items analysis or other research. The test, the manual, the record forms, and other accompanying material should help users make correct interpretations of the test results and should warn against common misuses. The test manual should state explicitly the purpose and applications for which the test is recommended and identify any special qualifications required to administer the test and to interpret it properly. Evidence of validity and reliability, along with other relevant research data, should be presented in support of any claims made.

c. Norms presented in test manuals should refer to defined and clearly described populations. These populations should be the groups with whom users of the test will ordinarily wish to compare the persons tested. Test users should consider the possibility of bias in tests or in test items. When indicated, there should be an investigation of possible differences in validity for ethnic, sex, or other subsamples that can be identified when the test is given.

d. Mental health counselors who have the responsibility for decisions about individuals or policies that are based on test results should have a thorough understanding of counseling or educational measurement and of validation and other test research.

e. Mental health counselors should develop procedures for systematically eliminating from data filed test score information that has, because of the lapse of time, become obsolete.

f. Any individuals or organizations offering test scoring and interpretation services must be able to demonstrate that their programs are based on appropriate research to establish the validity of the programs and procedures used in arriving at interpretations. The public offering of an automated test interpretation service will be considered as a professional-to-professional consultation. In this, the formal responsibility of the consultant is to the consultee, but the ultimate and overriding responsibility is to the client.

g. Counseling services for the purpose of diagnosis, treatment, or personalized advice are provided only in the context of a professional relationship, and are not given by means of public lectures or demonstrations, newspapers or magazine articles, radio or television programs, mail, or similar media. The preparation of personnel reports and recommendations based on test data secured solely by mail is unethical unless such appraisals are an integral part of a continuing client relationship with a company as a result of which the consulting mental health counselor has intimate knowledge of the client's personal situation and can be assured thereby that written appraisals will be adequate to the purpose and will be properly interpreted by the client. These reports must not be embellished with such detailed analyses of the subject's personality traits as would be appropriate only for intensive interviews with the subjects.

31.10(9) Pursuit of research activities. The decision to undertake research should rest upon a considered judgment by the individual mental health counselor about how best to contribute to counseling and to human welfare. Mental health counselors carry out their investigations with respect for the people who participate and with concern for their dignity and welfare.

a. In planning a study, the investigator has the personal responsibility to make a careful evaluation of its ethical acceptability, taking into account the following principle for research with human beings. To the extent that this appraisal, weighing scientific and humane values, suggests a deviation from any principle, the investigator incurs an increasingly serious obligation to seek ethical advice and to observe more stringent safeguards to protect the rights of the human research participants.

b. Mental health counselors know and take into account the traditions and practices of other professional groups with members of such groups when research, services, and other functions are shared or in working for the benefit of public welfare.

c. Ethical practice requires the investigator to inform the participant of all features of the research that reasonably might be expected to influence willingness to participate, and to explain all other aspects of the research about which the participant inquires. Failure to make full disclosure gives added emphasis to the investigator's abiding responsibility to protect the welfare and dignity of the research participant.

d. Openness and honesty are essential characteristics of the relationship between investigator and research participant. When the methodological requirements of a study necessitate concealment or deception, the investigator is required to ensure as soon as possible the participant's understanding of the reasons for this action and to restore the quality of the relationship with the investigator.

e. In the pursuit of research, mental health counselors give sponsoring agencies, host institutions, and publication channels the same respect and opportunity for giving informed consent that they accord to individual research participants. They are aware of their obligation to future research workers and ensure that host institutions are given feedback information and proper acknowledgment.

f. Credit is assigned to those who have contributed to a publication, in proportion to their contribution.

g. The ethical investigator protects participants from physical and mental discomfort, harm and danger. If the risk of such consequences exists, the investigator is required to inform the participant of that fact, secure consent before proceeding, and take all possible measures to minimize distress. A research procedure may not be used if it is likely to cause serious and lasting harm to participants.

h. After the data is collected, ethical practice requires the investigator to provide the participant with a full clarification of the nature of the study and to remove any misconceptions that may have arisen. Where scientific or humane values justify delaying or withholding information, the investigator acquires a special responsibility to ensure that there are no damaging consequences for the participants.

i. Where research procedures may result in undesirable consequences for the participant, the investigator has the responsibility to detect and remove or correct these consequences, including, where relevant, long-term aftereffects.

j. Information obtained about the research participants during the course of an investigation is confidential. When the possibility exists that others may obtain access to such information, ethical research practice requires that the possibility, together with the plans for protecting confidentiality, be explained to the participants as a part of the procedure for obtaining informed consent.

645—31.11(147,154D,272C) Report of malpractice claims or actions or disciplinary actions. Each licensee shall submit a copy of any judgment or settlement of a malpractice claim or

any disciplinary action taken by another licensing authority in another state to the board within 30 days after such action.

645—31.12(147,154D,272C) Investigation of complaints or malpractice claims. The following procedure will be the standard method followed by the board for investigation of complaints or malpractice claims:

31.12(1) Complaints shall be initially reviewed by the discipline screening committee of the board. The discipline screening committee is composed of a minimum of three board members including at least one professional member of each profession licensed by the board and one public member. After initial review, the screening committee may decide to recommend one of the following actions:

a. Recommend to the board that the case be investigated by the department of inspections and appeals;

b. Recommend to the board that a board member investigate the facts of the complaint;

c. Recommend to the board that the case be rejected.

31.12(2) The investigating board member or employee of the department of inspections and appeals may request information from any peer review committee which may be established to assist the board. The investigating board member or employee of the department of inspections and appeals may consult with the assistant attorney general concerning the investigation. If an employee of the department of inspections and appeals is designated to investigate, that person may also consult with a designated consulting board member concerning the investigation.

31.12(3) Upon completion of an investigation, the designated investigator shall make an investigative report to the screening committee. After consideration of the report, the screening committee may decide to take any of the following actions:

a. Determine that further investigation is necessary;

b. Recommend to the board that the investigation be closed with no further action;

c. Recommend to the board that the investigation be closed with no formal action but with informal advice provided to the licensee;

d. Recommend to the board that either the screening committee or the full board conduct an informal interview with the licensee, pursuant to rule 31.13(147,154D,272C); or

e. Recommend to the board that the board make a finding that probable cause exists to believe a violation may have occurred and that a formal disciplinary proceeding should be initiated.

31.12(4) Notice of hearing. If there is a finding of probable cause to initiate a disciplinary hearing, a statement of charges and notice of hearing shall be prepared subject to approval by the board or the board chairperson. Upon approval of the charging document, it shall be served on the respondent by certified mail, return receipt requested, at least 20 days before the date of the hearing.

31.12(5) Board members who serve on the discipline screening committee are not disqualified from participating in a disciplinary hearing by virtue of service on the screening committee or prior review of investigative material. A consulting board member who has reviewed relevant investigative material will be disqualified from participating in a disciplinary hearing.

645—31.13(147,154D,272C) Informal licensee interview. In the course of conducting or directing an investigation, the board may request the licensee to attend an informal licensee interview before the board or the board's screening committee. The licensee is not required to attend or participate in the informal interview. However, the licensee is required to inform the board as to whether the licensee will attend the informal interview. The purpose of an informal licensee interview is to assist the board in determining whether to initiate a disciplinary proceeding, and may be used as a forum for the board to discuss with the licensee practice issues which could be grounds for discipline.

31.13(1) Because an informal interview constitutes a part of the board's investigation of a potential disciplinary case, statements that are made and facts which are discussed at the investigatory interview may be considered by the board in the event the matter proceeds to a contested case hearing only if those statements and facts are independently introduced into evidence.

31.13(2) The licensee may but is not required to be represented by an attorney at the informal interview. The attorney may advise the licensee and may participate in general discussion, and may, upon leave of the board, make statements on behalf of the licensee, but is not entitled to make procedural motions or objections or engage in argumentative advocacy on behalf of the licensee.

31.13(3) The informal interview shall be held in closed session pursuant to Iowa Code section 21.2(2).

31.13(4) The licensee or the board may seek an informal stipulation or settlement of the case at the time of the informal interview. If the parties agree to an informal settlement at the investigative interview, a statement of charges shall be filed simultaneously with the settlement document. The chairperson or the chairperson's designee may negotiate on behalf of the board. All informal settlements are subject to approval of a majority of the full board. If approved, the informal settlement becomes the final disposition of the matter and is a public record.

31.13(5) No board member is disqualified from participating in an adjudication of any resulting contested case by virtue of participating in an informal licensee interview.

31.13(6) In the event a settlement is not reached after an informal interview and a statement of charges is filed, the poststatement of charges settlement procedure set forth in rule 31.14(147,154D,272C) may still be utilized.

645—31.14(147,154D,272C) Alternative procedure. A disciplinary hearing before the licensing board is an alternative to the procedure in Iowa Code sections 147.58 to 147.71.

31.14(1) Informal settlement—procedure and parties.

a. A contested case may be resolved by informal settlement. Negotiation of an informal settlement may be initiated by the state of Iowa represented by the prosecuting attorney, the respondent, or the board. The board shall designate a board member with authority to negotiate on behalf of the board.

b. The full board is not involved in negotiation until presentation of a final, written form to a quorum of the board for approval.

31.14(2) Waiver of notice and opportunity to be heard. Consent to negotiation by the respondent constitutes a waiver of notice and opportunity to be heard pursuant to Iowa Code section 17A.17 during informal settlement negotiation. Thereafter, the prosecuting attorney is authorized to discuss informal settlement with the board's designee.

31.14(3) Board approval. All informal settlements are subject to approval of a majority of the full board. No informal settlement shall be presented to the board for approval except in final, written form executed by the respondent. If the board fails to approve the informal settlement, it shall be of no force or effect to either party.

31.14(4) Disqualification of designee. A board member who is designated to act in negotiation of an informal settlement is disqualified from participating in the adjudication of the contested case.

645—31.15(147,154D,272C) License denial. Any request for a hearing before the board concerning the denial of a license shall be submitted by the applicant, in writing, to the board by certified mail, return receipt requested, within 30 days of the mailing of a notice of denial of license. License denial means a board determination during any stage of the license application process that the applicant is not qualified to proceed with the licensing process.

645—31.16(17A,147,154D,272C) Hearings open to the public. A hearing of a licensing board concerning a licensee or an applicant shall be open to the public unless, in the case of a license disciplinary hearing, the licensee or the licensee's attorney requests in writing that the hearing be closed to the public. The hearing shall be conducted in accordance with the rules of procedure set out in 645—Chapter 32.

645—31.17(17A,147,154D,272C) Judicial review. Judicial review of the board's action may be sought in accordance with the terms of the Iowa administrative procedure Act, from and after the date of the board's decision. It is not necessary to request a rehearing before the board to appeal to the district court.

645—31.18(147,154D,272C) Publication of decisions. Final decisions of the board relating to disciplinary proceedings shall be transmitted to the appropriate professional association, the news organizations identified on the media list, the employer, and other persons who request the decisions.

645—31.19(147,154D,272C) Peer review committees.

31.19(1) Peer review committees for the profession may register with the board of examiners within 30 days after formation.

31.19(2) Peer review committees shall report in writing (confidential information within 30 days of the action) any disciplinary action taken against a licensee by the peer review committee.

31.19(3) The board may appoint peer review committees as needed consisting of not more than five persons who are licensed to practice the profession to advise the board on standards of practice and other matters relating to specific complaints as requested by the board. The peer review committee shall observe the requirements of confidentiality provided in Iowa Code chapter 272C.

645—31.20(147,154D,272C) Conduct of persons attending meetings.

31.20(1) The person presiding at a meeting for the board may exclude a person from an open meeting for behavior that obstructs the meeting.

31.20(2) Camera and recording devices may be used at open meetings provided they do not obstruct the meeting. If the user of a camera or recording device obstructs the meeting by the use of such device, the person presiding may request the person to discontinue use of the camera or device. If the person persists in use of the device or camera, that person shall be ordered excluded from the meeting by order of the board member presiding at the meeting.

These rules are intended to implement Iowa Code chapters 17A, 147, 154D, and 272C.

[Filed emergency 9/24/93—published 10/13/93, effective 9/24/93]

[Filed 2/11/94, Notice 10/13/93—published 3/2/94, effective 4/7/94]

CHAPTER 32
CONTESTED CASES

The board hereby adopts the Uniform Rules for Contested Cases which is printed in the front of Volume I of the Iowa Administrative Code, with the following amendments:

645—32.1(17A,272C) Scope and applicability. In lieu of the words “(agency name)”, insert “board of behavioral science examiners”.

645—32.2(17A,272C) Definitions. In lieu of the words “(designate official)”, insert “administrative law judge assisting the board; except that, with regard to substantive or dispositive motions, “presiding officer” means all participating members of the board”.

645—32.10(17A,272C) Pleadings.

In lieu of subrule 32.10(2), insert:

32.10(2) Hearing process.

a. Statement of charges. In the case of a license disciplinary proceeding, the statement of charges shall set forth in ordinary and concise language the acts or omissions with which the licensee is charged and shall be of sufficient detail to enable the efficient preparation of the respondent’s defense. The statement of charges shall specify the statute(s) and any rule(s) which are alleged to have been violated, and may also include the additional information which the board deems appropriate to the proceeding. Every statement of charges and notice of hearing prepared by the board shall be reviewed by the office of the attorney general, which shall be responsible for legal representation of the public interest in all proceedings before the board. The statement of charges may be consolidated with the notice of hearing described in rule 32.5(17A).

b. Notice of denial. In the case of a hearing on an appeal of a license denial, the denial shall contain adequate information to place the applicant on notice as to the grounds for denial. The notice of denial shall be attached to and incorporated into the notice of hearing described in rule 32.5(17A).

In lieu of subrule 32.10(3), insert:

32.10(3) Answer. A respondent is not required to file an answer in response to a statement of charges.

645—32.11(17A,272C) Service and filing of pleadings and other papers.

32.11(3) In lieu of the words “(specify office and address)”, insert “the Board of Behavioral Science Examiners, Professional Licensure Bureau, Iowa Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075”. In lieu of the words “(agency name)”, insert “the board”.

32.11(4) In lieu of the words “(designate office)”, insert “the Board of Behavioral Science Examiners, Professional Licensure Bureau, Iowa Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075”.

645—32.15(17A,272C) Prehearing conference. In lieu of the words “(designate office)”, insert the words “presiding officer”.

645—32.23(17A,272C) Recording costs. In lieu of the words “(agency name)”, insert “board”.

645—32.24(17A,272C) Interlocutory appeals. In lieu of the words “(board, commission, director)” insert “board”.

In lieu of Uniform Rule X.25(17A) insert:

645—32.25(17A,272C) Final decision.

32.25(1) When six or more members of the board preside over the reception of evidence at the hearing, its decision is a final decision. A final decision shall be in writing, dated, and shall consist of the following parts:

- a. A concise statement of the facts which support the finding of fact.
- b. Findings of fact. A party may submit proposed findings of fact; if a party does submit proposed findings, the decision shall include a ruling on each proposed finding.
- c. Conclusions of law which shall be supported by cited authority or reasoned opinion.
- d. The decision or order which sets forth the action to be taken or the disposition of the case. The decision may provide that the respondent be exonerated, or may provide for any disciplinary sanction provided in rule 645—31.8(147,154D,272C).

32.25(2) If the evidence is received by a panel of at least three board members who are licensed in the profession of the respondent, but less than six members of the board, the decision of the panel is a proposed decision. A proposed decision may be appealed to the board by any party by serving the board's administrator with a notice of appeal within 30 days after issuance.

a. The board may review a proposed decision or order on its own motion by serving notice on all parties within 30 days of a proposed decision.

b. Within seven days after service of the notice of appeal, the appellant shall serve ten copies of the exceptions, if any, together with the brief and argument on the board's administrator, and shall also serve copies to each appellee. Any appellee shall have 14 days following service of the exceptions and brief to file a responsive brief and argument. Except for the notice of appeal, the above time requirements will be extended by stipulation of the parties and may be extended upon application approved by the board chairperson or the presiding officer.

c. Oral argument of the appeal is discretionary but may be required by the board upon its own motion. At the times designated for filing briefs and arguments, either party may request oral argument. If a request for oral argument is granted or such is required by the board on its own motion, the board's administrator shall notify all parties of the date, time, and place. The presiding officer shall preside at the oral argument and determine the procedural order of the proceedings.

d. The record on appeal shall be the entire record made before the hearing panel.

32.25(3) The board's decision on an appeal of a proposed decision of a panel is a final decision.

645—32.27(17A,272C) Applications for rehearing.

32.27(3) In lieu of the words "(agency name)", insert "board".

32.27(4) In lieu of the words "(agency name)", insert "board".

645—32.28(17A,272C) Stays of agency actions.

32.28(1) *When available.*

a. In lieu of the words "(agency name)", insert "board". In lieu of the words "(board, commission, director)", insert "board".

These rules are intended to implement Iowa Code chapters 17A and 272C.

[Filed emergency 9/24/93—published 10/13/93, effective 9/24/93]

[Filed 2/11/94, Notice 10/13/93—published 3/2/94, effective 4/7/94]

**CHAPTER 36
PETITIONS FOR RULE MAKING**

The board of behavioral science examiners hereby adopts the petitions for rule making segment of the Uniform Administrative Rules which is printed in the front of Volume I of the Iowa Administrative Code, with the following amendments:

645—36.1(17A) Petition for rule making. In lieu of the words “(designate office)”, insert “Board of Behavioral Science Examiners, Professional Licensure, Iowa Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075”.

In lieu of the words “(AGENCY NAME)”, the heading of the petition should read:
BEFORE THE
BOARD OF BEHAVIORAL SCIENCE EXAMINERS

645—36.3(17A) Inquiries. In lieu of the words “(designate official by full title and address)”, insert “the Behavioral Science Board Administrator, Professional Licensure, Lucas State Office Building, Des Moines, Iowa 50319-0075”.

These rules are intended to implement Iowa Code chapter 17A.

[Filed emergency 9/24/93—published 10/13/93, effective 9/24/93]
[Filed 2/11/94, Notice 10/13/93—published 3/2/94, effective 4/7/94]

**CHAPTER 37
DECLARATORY RULINGS**

The board of behavioral science examiners hereby adopts the declaratory rulings segment of the Uniform Administrative Rules which is printed in the front of Volume I of the Iowa Administrative Code, with the following amendments:

645—37.1(17A) Petition for declaratory ruling. In lieu of the words “(designate office)”, insert “Board of Behavioral Science Examiners, Professional Licensure, Iowa Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075”.

In lieu of the words “(AGENCY NAME)”, the heading on the petition should read:
BEFORE THE
BOARD OF BEHAVIORAL SCIENCE EXAMINERS

645—37.3(17A) Inquiries. In lieu of the words “(designate official by full title and address)”, insert “the Behavioral Science Board Administrator, Professional Licensure, Lucas State Office Building, Des Moines, Iowa 50319-0075”.

These rules are intended to implement Iowa Code chapter 17A.

[Filed emergency 9/24/93—published 10/13/93, effective 9/24/93]
[Filed 2/11/94, Notice 10/13/93—published 3/2/94, effective 4/7/94]

CHAPTER 38
AGENCY PROCEDURE FOR RULE MAKING

The board of behavioral science examiners hereby adopts the agency procedure for rule making segment of the Uniform Administrative Rules which is printed in the front of Volume I of the Iowa Administrative Code, with the following amendments:

645—38.3(17A) Public rule-making docket. In subrule 38.3(2), Anticipated rule making, in lieu of the words “(commission, board, council, director)”, insert “board of behavioral science examiners”.

645—38.4(17A) Notice of proposed rule making. In subrule 38.4(3), Notices mailed, in lieu of the words “(specify time period)”, insert “one year”.

645—38.5(17A) Public participation. In subrule 38.5(l), Written comments, in lieu of the words “(identify office and address)”, insert “Board of Behavioral Science Examiners, Professional Licensure, Iowa Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075”.

645—38.6(17A) Regulatory flexibility analysis. In subrule 38.6(3), Mailing list, in lieu of the words “(designate office)”, insert “Board of Behavioral Science Examiners, Iowa Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075”.

645—38.10(17A) Exemptions from public rule-making procedures. In subrule 38.10(2), Categories exempt, in lieu of the words “(List here narrowly drawn classes of rules where such an exemption is justified and a brief statement of the reasons for exempting each of them)”, insert the following:

“a. Rules which implement recent legislation, when a statute provides for an effective date which does not allow for the usual public notice and participation requirements.

“b. Rules which confer a benefit or remove a restriction on licensees, the public, or some segment of the public.

“c. Rules which are necessary because of imminent peril to the public health, safety or welfare.

“d. Nonsubstantive rules intended to correct typographical errors, incorrect citations, or other errors in existing rules.”

645—38.11(17A) Concise statement of reasons. In subrule 38.11(l), General, in lieu of the words “(specify the office and address)”, insert “Board of Behavioral Science Examiners, Professional Licensure, Iowa Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075”.

645—38.13(17A) Agency rule-making record. In subrule 38.13(2), Contents, paragraph “c,” in lieu of the words “(agency head)”, insert “board of behavioral science examiners”.

These rules are intended to implement Iowa Code chapter 17A.

[Filed emergency 9/24/93—published 10/13/93, effective 9/24/93]

[Filed 2/11/94, Notice 10/13/93—published 3/2/94, effective 4/7/94]

CHAPTER 39
PUBLIC RECORDS AND FAIR INFORMATION PRACTICES

The board of behavioral science examiners hereby adopts 645—Chapter 10, “Public Records and Fair Information Practices,” as Chapter 39, with the following amendments:

645—39.1(17A,22) Definitions. As used in this chapter:

“*Board*” means the board of behavioral science examiners.

645—39.14(17A,22) Personally identifiable information.

39.14(5) Licensure records. These records contain information about the licensee including any or all of the following: transcripts, collected pursuant to Iowa Code section 147.19; application for licensure by examination, collected pursuant to Iowa Code sections 147.29 to 147.43; birth certificates, collected pursuant to Iowa Code section 147.3; references, collected pursuant to Iowa Code section 147.3; past felony record, collected pursuant to Iowa Code section 147.3; high school graduation or equivalency records, collected pursuant to Iowa Code section 147.29; examination scores, collected pursuant to Iowa Code section 147.34; continuing education records, collected pursuant to Iowa Code section 272C.2. In the case of licensure by endorsement, the board collects verification of licensure by another board pursuant to Iowa Code section 147.47. This information is stored on paper or microfilm only.

These rules are intended to implement Iowa Code section 22.11.

[Filed emergency 9/24/93—published 10/13/93, effective 9/24/93]

[Filed 2/11/94, Notice 10/13/93—published 3/2/94, effective 4/7/94]



Esthetics practice (see esthetics curriculum, 60.6(3))	
Makeup application	
Electrology practice (see electrology curriculum, 60.5(3))	
Nail technology practice (see nail technology curriculum, 60.8(2))	
Electrotherapy	
Salon management	
TOTAL SUPERVISED PRACTICAL INSTRUCTION	1335 hours
UNASSIGNED—Specific needs	150 hours
TOTAL	2100 hours

b. Complete the application form prescribed by the board. Application must be filed with the board at least 45 days preceding the examination. Application forms may be obtained from the school of cosmetology arts and sciences at which the student is enrolled, or by contacting the Board of Cosmetology Arts and Sciences Examiners, Iowa Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075.

c. Present to the department a high school diploma or its equivalent.

60.2(3) Students who complete their training prior to the date of examination may qualify by complying with the above requirements; however, the exact date of graduation shall be shown on the application.

60.2(4) The cosmetology board examination may consist of a practical and a theory test.

645—60.3(157) Licensure of applicants licensed in cosmetology arts and sciences in other states and countries.

60.3(1) The board may enter into reciprocal agreements with other states pursuant to the provisions of Iowa Code sections 147.44 to 147.49.

a. Reciprocal agreements. The board may enter into a full reciprocal agreement with any state which, as determined by the examining board, has similar educational and examining standards and which shall reciprocate with this state. Each applicant shall show proof of licensure validity in the state with which this state has a full reciprocal agreement; upon acceptance of said proof, the applicant shall be issued a license to practice in this state.

b. Conditional reciprocal agreements. The board may enter into conditional reciprocal agreements with another state which conducts examinations. Every person licensed in that state, when applying for a license to practice in this state, shall comply with one or both of the following:

(1) Furnish satisfactory proof to the department that the applicant has been licensed and actively engaged in the practice of any of the professions under the jurisdiction of the board for the period 12 months just prior to application.

(2) Pass a practical examination in the practice of any of the professions under the jurisdiction of the board.

c. For applicants licensed in a state having reciprocity with Iowa, the application procedures shall be as follows:

(1) Applicant shall submit a completed application form prescribed by the board and accompanied by the fee specified in 645—subrule 62.1(2).

(2) Applicant shall submit with application a certification of licensure in another state with which Iowa has a reciprocal agreement.

If the applicant satisfies proof of licensure by a state with which the Iowa board has a reciprocal agreement, the examination requirement for licensure will be waived for that applicant.

60.3(2) For applicants licensed in states which do not have reciprocity with Iowa, the application procedure shall be as follows:

a. Applicant shall submit a completed application form prescribed by the board and accompanied by the fee as specified in 645—subrule 62.1(2).

b. Applicant shall submit a proof of licensure in another state for at least 12 months in the 24-month period preceding the application.

c. If the applicant completes the requirements of 60.3(2) "a" and "b," the applicant shall be allowed to take the practical and theory examinations given by the board.

60.3(3) Any applicant licensed in another state or country who does not meet the requirements of subrule 60.3(1) or 60.3(2) shall present a completed application and notarized copy of the license from the other state or country. The application shall be reviewed to determine if additional hours of training are necessary or if the applicant qualifies to take the examination.

60.3(4) Upon request, persons who are licensed in other states and countries who are determined to be eligible to take the practical and theory examination shall be issued a temporary permit as set forth in subrule 60.11(1).

645—60.4(157) Cosmetology arts and sciences examination.

60.4(1) Examinees taking state board examinations shall have at their disposal for the examination all necessary materials requested by the cosmetology board of arts and sciences examiners.

60.4(2) Before commencing the examinations, each applicant will be given a confidential number which shall be inscribed on the answer sheet.

60.4(3) Any applicant taking the state board examination who desires to practice prior to examination shall obtain a temporary permit issued by the department.

60.4(4) A certificate of licensure shall be issued by the department to an applicant who has passed an examination conducted by the board determining minimum competency in the practice. The board shall not be confined to any specific system or method. The examination shall be consistent with the prescribed curriculum for the schools of cosmetology arts and sciences of this state and may include practical demonstrations, written and oral tests as the board deems appropriate. The examination is to be prepared and conducted by the board so as to determine whether or not the applicant possesses the requisite skills in the profession to perform properly all the duties thereof and has sufficient knowledge of the prescribed curriculum.

a. An applicant who has failed either the theory or practical section or both must be reexamined. The applicant receiving a failing grade may be reexamined in the portion of the examination where the failure occurred at a regularly scheduled state board examination and obtain a passing grade.

b. Failure to appear and take the examination shall result in forfeiture of the fee and temporary permit unless the failure to appear shall have been due to illness or similar cause in which written request setting forth reasons why forfeiture should not occur shall be made to the board of cosmetology arts and sciences examiners.

c. An applicant who fails one section and does not pass that section within two years must be reexamined in both sections.

60.4(5) The examination rooms will be closed to everyone except examinees, examiners, and administrative staff.

645—60.5(157) Requirements for license to practice electrology.

60.5(1) All persons who practice electrology in the state of Iowa are required to be licensed as electrologists with the exception of those cosmetologists licensed after July 1, 1993, who show proof of completion of the complete cosmetology curriculum which includes the entire electrology course of study established with the adoption of these rules.

60.5(2) A person applying for an electrology license shall:

a. Present to the board a diploma or similar evidence indicating successful completion of a course of at least 325 hours of training related to electrology in a licensed school of cosmetology arts and sciences in Iowa, or from any school in another state which is licensed or approved by the board and which teaches the practice of electrology. The board shall not

CORE LIFE SCIENCES CURRICULUM

Human anatomy and physiology

Cells, metabolism and body systems

Human anatomy

Bacteriology

Infection control practices

Universal precautions

Sanitation

Sterilization

Disinfection

Basic chemistry

Matter

Elements

Compounds and mixtures

Basic electricity

Electrical measurements

Reproduction of light rays

Infrared rays

Ultraviolet rays

Visible rays/spectrum

Safety

Hygiene and grooming

Personal and professional health

Professional ethics

Public relations

Law

Iowa law: Iowa Code chapters 157, 147 and 272C

Regulatory rules: Iowa Administrative Code 645—Chapters 60 to 65

Federal laws and standards

TOTAL CORE CURRICULUM HOURS**150 hours****645—60.10(157) Requirements for instructor's license.****60.10(1)** An instructor in a licensed school of cosmetology arts and sciences shall:*a.* Be a graduate of an accredited high school or the equivalent thereof.*b.* Be licensed in the state of Iowa as a cosmetologist.*c.* Have 1000 hours of instructor's training with curriculum contents to be determined by the board or two years' active practice in the field of cosmetology within six years prior to application proven by documentation.*d.* Submit application and fees with certification from school of cosmetology arts and sciences training or affidavits of employment or proof of active practice in the field of cosmetology arts and sciences to the board prior to the starting date of employment as an instructor by a school of cosmetology arts and sciences.*e.* The department shall issue to the applicant a notice of registration which shall be displayed for public view. Such notice shall be valid until the applicant has complied with 60.10(1) "f."*f.* Attend an instructor's institute prescribed by the cosmetology board of examiners within the first six months of employment to receive the original instructor's license.

g. An instructor teaching courses in electrology, esthetics and nail technology shall hold a current license in the practice and possess an instructor license to teach that practice or be a licensed cosmetology instructor who possesses the skill and knowledge required to instruct in that practice.

60.10(2) Reserved.

645—60.11(157) Temporary permits.

60.11(1) Trainee permit. A person who completes the requirements for licensure listed in Iowa Code section 157.3, except for the examination, shall be known as a trainee and, upon request, the department shall issue a temporary permit which allows the applicant to practice in the cosmetology arts and sciences, under the supervision of a licensee of cosmetology arts and sciences, barber, or person holding the same license in cosmetology arts and sciences, from the date of application until passage of the examination subject to that practice. An applicant shall take the first available examination administered by the board and may retain the temporary permit if the applicant does not pass the first examination. An applicant who does not pass the first examination shall take the next available examination administered by the board. The temporary permit of an applicant who does not pass the second examination shall be revoked.

60.11(2) Demonstrator's permit. The department may issue a demonstrator's permit for the purpose of demonstrating cosmetology arts and sciences to the consuming public upon recommendation of the board. The board shall determine and state its recommendations and the length of time the temporary permit is valid.

a. A demonstrator permit shall be valid for the person, location, purpose and duration stated on the permit.

b. A demonstrator permit shall be applied for at least 30 days in advance of dates of intended use.

c. A demonstrator permit shall be issued for from one to ten days.

d. The application shall be accompanied by the fee as set forth in 645—subrule 62.1(15).

e. No more than four permits shall be issued to any applicant during a calendar year.

645—60.12(157) Reinstatement of inactive (exempt) practitioners of cosmetology arts and sciences. Inactive practitioners who have requested and been granted a waiver of compliance with the renewal requirements as outlined in 645—64.6(272C) or Iowa Code chapter 157 or 272C and who have obtained a certificate of exemption shall, prior to engaging in the practice of the profession in Iowa, satisfy the following requirements for reinstatement:

60.12(1) Submit written application for reinstatement to the board upon forms provided by the boards; and

60.12(2) Furnish in the application evidence of one of the following:

a. Verification of current active licensure in another state of the United States or the District of Columbia and a notarized statement of active practice of 12 months during the 24 months preceding application for reinstatement of Iowa license; or

b. Completion of a total number of hours of accredited continuing education computed by multiplying four hours by the number of years, with a maximum of four years, a certificate of exemption shall have been in effect for the applicant; or completion of a refresher course approved by the board (see 645—64.7(272C)); or

c. Successful completion of the Iowa state license examination conducted within one year immediately prior to the submission of such application for reinstatement.

645—60.13(272C) Reinstatement of lapsed license.

60.13(1) Those persons who have failed to renew a license to practice issued by the department pursuant to Iowa Code chapter 157 and who have not previously received a certificate of exemption shall:

a. For a lapsed cosmetology arts and sciences license, pay past due renewal and penalty fees in addition to completion of all past due continuing education to a maximum of four years. If lapsed four years or more, the person shall complete a refresher course approved by the board and retake the practical portion of the state board examination.

b. For a lapsed manicuring license, pay past renewal and penalty fees in addition to completion of all past due continuing education to a maximum of four years.

c. For a lapsed instructor license, pay past renewal and penalty fees to a maximum of four years and take a Micro Teaching Technical Skills Institute course within six months of date of reinstatement.

60.13(2) In lieu of the continuing education requirements of 645—Chapter 64, a lapsed licensee may provide verification of current licensure in another state of the United States or the District of Columbia and a notarized statement of active practice of 12 months during the 24 months preceding application for reinstatement of Iowa licensure.

60.13(3) A person applying for reinstatement of a license which has lapsed for four years or more shall be required to pay a maximum of four years' past due renewal fees and penalty fees then due and complete 16 hours of continuing education. The continuing education shall have been approved 30 days prior to date of class.

645—60.14(157) Display of license. The original practitioner's license and renewal or trainee permit shall be displayed in the licensee's primary place of practice. Following the first renewal, a wallet-sized duplicate license, obtained from the department, shall be available at all satellite places of practice upon request by a client or inspector.

645—60.15(157) Notification of change of name or mailing address.

60.15(1) Each licensee or trainee shall notify the department of a change of the licensee's mailing address within 30 days after change.

60.15(2) Each licensee or trainee shall notify the department of a change of the licensee's name within 30 days after change.

These rules are intended to implement Iowa Code sections 147.29, 147.36, 147.44 to 147.49, 157.3, 157.4, 157.5, and Iowa Code chapter 272C.

[Filed prior to 7/1/52; amended 4/21/53, 5/15/53, 10/1/59, 4/19/71]

[Filed 8/5/77, Notice 6/1/77—published 8/24/77, effective 10/1/77]

[Filed 4/28/78, Notice 12/28/77—published 5/17/78, effective 6/21/78]

[Filed 10/19/79, Notice 8/22/79—published 11/14/79, effective 12/21/79]

[Filed 2/27/81, Notice 12/10/80—published 3/18/81, effective 4/22/81]

[Filed 11/15/82, Notice 9/1/82—published 12/8/82, effective 1/15/83]

[Filed 10/6/83, Notice 7/20/83—published 10/26/83, effective 11/30/83]

[Filed 4/15/85, Notice 2/27/85—published 5/8/85, effective 6/12/85]

[Filed 8/5/85, Notice 6/5/85—published 8/28/85, effective 10/2/85]

[Filed emergency 7/10/87—published 7/29/87, effective 7/10/87]

[Filed 4/29/88, Notice 3/23/88—published 5/18/88, effective 6/22/88]

[Filed 8/4/89, Notice 6/14/89—published 8/23/89, effective 9/27/89]

[Filed 9/29/89, Notice 8/23/89—published 10/18/89, effective 11/22/89]

[Filed 2/2/90, Notice 12/27/89—published 2/21/90, effective 3/28/90]

[Filed 9/27/91, Notice 6/12/91—published 10/16/91, effective 11/20/91]

[Filed 1/3/92, Notice 9/4/91—published 1/22/92, effective 2/26/92]*

[Filed 12/4/92, Notice 8/5/92—published 12/23/92, effective 1/29/93]

[Filed 2/11/94, Notice 10/27/93—published 3/2/94, effective 4/6/94]

*Effective date of 2/26/92 delayed until adjournment of the 1992 General Assembly by the Administrative Rules Review Committee at its meeting held February 3, 1992.

...

...

...

...

...

...

CHAPTER 63
REQUIREMENTS FOR SALONS
AND SCHOOLS OF COSMETOLOGY ARTS AND SCIENCES

[Prior to 7/29/87, Health Department(470) Chs 149, 150]

[Prior to IAC 12/23/92, see 645—Chapters 60, 61]

645—63.1(157) Rules and inspection reports. The owner or manager of every salon or school of cosmetology arts and sciences shall keep a copy of the rules of sanitation adopted by the Iowa department of public health and of the most recent inspection report posted in a conspicuous place for the information and guidance of all persons employed or studying therein and the public generally.

645—63.2(157) License. Each licensee shall visibly display at the licensee's work station or close proximity thereof the original license, duplicate license or temporary permit, and the current renewal certifying that the practitioner is licensed or a trainee certified by the board. Salon and school of cosmetology arts and sciences licenses along with the current renewal shall be posted visible to the public therein.

645—63.3(157) Proper quarters.

63.3(1) A salon shall not be maintained in a home unless a separate room is provided for that purpose. The room(s) designated as the salon shall not be permitted licensure unless it has direct ingress and egress from the outside of the residence. An exception to this rule is that an entrance may be through a nonliving area of the residence, i.e., hall, garage or stairway; in such an exception, any doors leading to the living quarters from said salon shall be closed during business hours. Any door leading directly from the licensed salon to any portion of the living area of the residence shall be closed at all times during business hours.

63.3(2) Salons operated in connection with any other business, except where food is handled, shall be separated by at least a partial partition. Should the salon be operated immediately adjacent to a business where food is handled, such establishment shall be entirely separated and any doors between the aforesaid shall be rendered unusable except in an emergency.

63.3(3) Each salon shall include a clinical, dispensary and reception area.

63.3(4) All establishments shall be kept well-lighted with at least ten foot candlepower of natural or artificial light present at all work stations. All areas shall be well-lighted.

63.3(5) All establishments shall be adequately ventilated. Special precautions must be taken when providing artificial nail services.

63.3(6) Toilet facilities shall be provided and made available and easily accessible within the building. They shall be maintained in sanitary condition. Soap or other cleansing agent must be available and individual cloth, paper towels or air blowers for drying hands must be provided. The common towel is strictly prohibited and the presence of same shall be prima facie evidence of its use.

63.3(7) A salon owner or supervisor may designate a smoking area, but a salon in its entirety may not be a designated smoking area. Signs must be posted indicating smoking and nonsmoking areas.

a. An entire salon may be designated as a nonsmoking area.

b. No person shall smoke or carry lighted smoking materials in a nonsmoking area or where flammable materials are being handled or dispensed.

c. The clinic area of all salons and schools of cosmetology arts and sciences shall be designated nonsmoking areas.

d. The dispensary area of all salons and schools of cosmetology arts and sciences shall be designated nonsmoking areas.

645—63.4(157) Sanitation.

63.4(1) All salons and schools of cosmetology arts and sciences shall be kept in a sanitary condition.

63.4(2) If a premises houses more than one licensed salon, the cleanliness and sanitary conditions of any common areas are the responsibility of each license holder and any violation found in the common area will be cited against all licensees occupying the premises.

63.4(3) Every licensee, trainee or student engaged in serving the public shall be neat and clean in person and attire and free from communicable disease.

63.4(4) Except as set forth in subrule 63.4(7), all styling, haircutting tools, instruments and equipment in a salon or a school of cosmetology arts and sciences which come in contact with a patron's hair, nails or skin shall be sanitized before use on each patron by cleansing thoroughly with soap and hot water and then immersed at least 20 minutes in an approved germicidal solution in a covered flat container large enough to immerse completely all tools, instruments and equipment, after which they should be dried and placed in a closed cabinet. All germicidal solutions shall be labeled. The solutions shall be:

- a. From 70 to and including 90 percent isopropyl alcohol;
- b. Quaternary ammonium compounds in 1 to 500 solution in water; or
- c. Other equivalent germicidal solutions with an EPA rating approved for this use.

63.4(5) All licensees and students shall wash their hands with soap and water immediately before serving each patron.

63.4(6) Head coverings, hairpins, clips, rollers and curlers shall be sanitized after each use.

63.4(7) All metallic instruments shall be kept clean by wiping carefully after each use with cotton saturated with an approved disinfectant solution. It is recommended that the solutions used with metallic instruments be isopropyl alcohol, 70 to and including 90 percent solution, which shall be kept at each occupied work station.

63.4(8) A disinfecting agent shall be available for immediate use at all times a salon or school of cosmetology arts and sciences is in operation.

63.4(9) Hair clippings shall not be allowed to accumulate and should be disposed of after each service.

63.4(10) Any disposable material coming into contact with blood or body fluids, such as discharge from open sores, pimples and sebaceous glands, shall be disposed of in a sealable plastic bag (separate from sealable trash or garbage liners) or in a manner that not only protects the licensee and the client but also others, such as sanitation workers, who may come into contact with the material.

63.4(11) Any disposable sharp objects that come in contact with blood or other body fluids shall be disposed of in a sealable rigid container (punctureproof) that is strong enough to protect the licensee and the client or others from accidental cuts or puncture wounds that could happen during the disposal process.

63.4(12) Sealable plastic bags and sealable rigid containers shall be available for use at all times when services are being performed. Absence of containers shall be prima facie evidence of noncompliance.

63.4(13) Emery boards, cosmetic sponges and orangewood sticks must be discarded after each use or given to the client.

645—63.5(157) Particular aspects of sanitizing.

63.5(1) Any material used to stop the flow of blood shall be used in liquid or powder form. The use of a styptic pencil is strictly prohibited; its presence in the workplace shall be prima facie evidence of its use.

63.5(2) All fluids, semifluids and powders must be dispensed with a shaker, dispenser pump or spray-type container. All creams, lotions and other cosmetics used for patrons must be kept in closed containers and dispensed with disposable applicators.

63.5(3) The use of nail buffers or neck dusters is strictly prohibited. Presence of these articles in the workplace shall be prima facie evidence of use.

63.5(4) No salon owner or supervisor shall allow any employee with a known contagious disease or condition to be present in the workplace.

63.5(5) A licensee, trainee, or student shall not undertake the treatment of any diagnosed disease or knowingly serve a client suffering from a communicable disease or condition, although head lice may be treated in the salon or school at the discretion of the licensed cosmetologist or instructor of cosmetology arts and sciences. Compliance with all applicable laws and rules shall be required.

63.5(6) All consumers must be protected from direct skin contact with multiuse capes or covers, by single-use towels, or paper neck strips. Neck strips must be disposed of immediately after use. All consumers must be protected with a nonabsorbent cover during chemical application.

63.5(7) Licensees shall wear rubber-latex gloves while working on a client if blood, pus or weeping is present or likely to occur. Gloves shall be disposed of after single use.

63.5(8) Licensees, salon owners and supervisors shall comply with all relevant federal and state workplace safety laws including all relevant requirements of federal and state hazard communication standards.

63.5(9) All sharp or pointed equipment shall be stored when not in use so as not to be readily available to consumers.

63.5(10) All heat-producing appliances must be stored in proper containers in a sufficiently ventilated, safe area.

63.5(11) Each licensee and salon owner shall comply with all other applicable state regulations pertaining to public health and safety.

645—63.6(157) Water. Every salon or school of cosmetology arts and sciences shall be supplied with an adequate supply of potable hot and cold water under pressure.

645—63.7(157) Laundry and storage facilities. All salons and schools of cosmetology arts and sciences must maintain an adequate supply of sanitized linen for proper operation.

63.7(1) All sanitized linen must be kept in an enclosed, dustproof cabinet until used.

63.7(2) Any towel that has been used once shall be considered soiled and shall be placed in a closed receptacle until properly laundered and sanitized.

63.7(3) Freshly laundered towels shall be used for each client.

645—63.8(157) Workstands. All workstands shall be covered with nonabsorbent, washable material.

63.8(1) All bottles, jars, receptacles, compartments and containers of all kinds shall be properly labeled at all times.

63.8(2) All equipment shall be maintained in a sanitary condition.

645—63.9(157) Pets. No pets of any kind shall be permitted in a salon or school of cosmetology arts and sciences except guide dogs and fish in an aquarium.

645—63.10(157) Clients. Licensees in serving the public may exercise reasonable discretion in accepting clients in their practice; however, licensees shall not refuse to accept clients into their practice or deny service to clients because of the client's race, creed, age, sex or national origin.

645—63.11(157) Records. Client records and appointment records shall be maintained for a period of no less than three years following the last date of entry. Proper safeguards shall be provided to ensure the safety of these records from destructive elements.

EXCEPTION: A school of cosmetology arts and sciences is not required to maintain appointment records for any required period of time. However, the client records shall indicate the date of service and identify the student rendering the service.

645—63.12(157) Electrology requirements and sanitation. A salon in which electrology is practiced shall follow all sanitation rules and requirements pertaining to all salons and shall also follow these requirements:

63.12(1) Electrology room shall have an area of not less than 100 square feet and shall be adequately lighted and ventilated.

63.12(2) Floors in the immediate area where the electrology is performed shall have an impervious, smooth, washable surface.

63.12(3) All refuse shall be stored in rigid containers with tight-fitting covers.

63.12(4) Closed cabinets for the exclusive storage of instruments and other equipment shall be provided for each practitioner.

63.12(5) All service table surfaces shall be constructed of impervious, easily cleanable material.

63.12(6) Needles shall be disposable, sterile and of single-client use, or shall be reusable needles which shall be thoroughly cleaned and steam sterilized, or dry heat sterilized between clients. Sterilization shall be done as follows:

a. Steam sterilization shall be at 250° F (121° C) for 15 minutes at a minimum pressure of 15 pounds per square inch.

b. Dry heat sterilization shall be at 350° F (170° C) for one hour (60 minutes).

63.12(7) Razors shall be single-client use and disposable or shall be sterilized razors with a new blade used for each client.

63.12(8) After each use, tweezers, clippers, and similar tools shall be disinfected with 70 to 90 percent alcohol, iodophor solution, or other germicidal solution accepted by the board.

63.12(9) All electrologists shall scrub their hands thoroughly before and after each client service.

63.12(10) Disposable gloves or finger cots shall be worn by the electrologist during the electrology service.

63.12(11) The electrologist shall wear a clean, freshly laundered outer garment.

645—63.13(157) Violations. If a violation of Iowa Code or these rules is detected within a premises owned or leased by or affiliated with the licensee in any way, then the violation shall be cited against the licensee.

These rules are intended to implement Iowa Code sections 147.7, 147.46, 157.6 and 157.14.

[Filed 10/13/67]

[Filed 9/2/77, Notice 7/13/77—published 9/21/77, effective 11/1/77]

[Filed 4/24/79, Notice 2/7/79—published 5/16/79, effective 7/1/79]

[Filed 11/15/84, Notice 9/26/84—published 12/5/84, effective 1/9/85]

[Filed 11/15/84, Notice 10/10/84—published 12/5/84, effective 1/9/85]

[Filed 5/12/87, Notice 12/3/87—published 6/3/87, effective 7/8/87]

[Filed emergency 7/10/87—published 7/29/87, effective 7/10/87]

[Filed 4/29/88, Notice 3/23/88—published 5/18/88, effective 6/22/88]

[Filed 8/4/89, Notice 6/14/89—published 8/23/89, effective 9/27/89]

[Filed 2/2/90, Notice 12/27/89—published 2/21/90, effective 3/28/90]

[Filed 12/4/92, Notice 8/5/92—published 12/23/92, effective 1/29/93]

[Filed 2/11/94, Notice 10/27/93—published 3/2/94, effective 4/6/94]

CHAPTER 64
COSMETOLOGY ARTS AND SCIENCES CONTINUING EDUCATION

[Prior to 7/29/87, Health Department(470) Ch 151]

[Prior to 12/23/92, see 645—Chapter 62]

645—64.1(272C) Continuing education requirements.

64.1(1) Beginning January 1, 1989, each licensee in this state shall complete during each license renewal period a minimum of 8 hours of continuing education approved by the board. Each person holding an instructor's license shall complete a minimum of 16 hours of continuing education at an advanced instructor's institute prescribed by the board during each license renewal period, which will also fulfill the continuing education required for a cosmetology arts and sciences license. Compliance with the requirement of continuing education is a prerequisite for license renewal in the next license period.

64.1(2) Beginning January 1, 1991, the license renewal period shall consist of a period of two years, from April 1 of one year to March 31 of the second year following. To establish this license renewal period and implement a staggered schedule for license renewals the board will:

a. Renew licenses for half the licensees for a period of January 1, 1991, to March 31, 1992. Continuing education requirements and license fees will be prorated accordingly. The continuing education for licensees will be 4 hours instead of the 8 hours stated in subrule 64.1(1). The license renewal fee for each will be \$12 instead of the \$20 stated in 645—Chapter 62.

b. Renew licenses for half of the licensees for a period of January 1, 1991, to March 31, 1993. Continuing education requirements and fees will be prorated accordingly. The continuing education requirements for licensees will be 8 hours. The continuing education instructor's requirements will be 16 hours. The license renewal fee for each will be \$22 instead of the \$20 stated in 645—Chapter 62.

c. Notify all licensees at time of renewal whether they will be licensed according to 64.1(2) "a" or "b."

d. Renew licenses thereafter on a biennial basis, from April 1 of one year to March 31 of the second year following.

64.1(3) Hours of continuing education credit may be obtained by attending and participating in a continuing education activity, either previously accredited by the board or which otherwise meets the requirements herein and is approved by the board pursuant to 645—64.7(272C).

Hours of credit for continuing education may also be received by active membership in a professional society relating to the profession in which the holder of the licensee practices. The licensee shall show proof that the licensee has attended a minimum of four meetings consisting of educational activity provided by that professional society during the year, e.g., eight one-hour educational meetings during a biennium.

64.1(4) It is the responsibility of each licensee to finance the costs of continuing education.

64.1(5) Those persons newly licensed during the license renewal period shall not be required to complete continuing education as a prerequisite for their renewal license.

64.1(6) Licensees currently licensed in Iowa but practicing in another state may comply with Iowa continuing education requirements for license renewal by meeting the continuing education requirements of the licensee's place of practice. Those licensees living and practicing in a state which has no continuing education requirement for renewal of license shall not be required to meet Iowa's continuing education requirement but shall pay all renewal fees when due.

64.1(7) Lapsed licensees residing in another state seeking reinstatement of an Iowa license shall be required to comply with 645—60.13(272C).

645—64.2(272C) Report of licensee. Each licensee shall file with the license renewal application a certificate of attendance furnished by the board, signed by the educational institution or professional society sponsoring the continuing education. The report shall be sent to the Board of Cosmetology Arts and Sciences Examiners, Iowa Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075.

645—64.3(272C) Licensed instructors. Licensed instructors may use hours of attendance at the annual instructor's institute prescribed by the board to fulfill continuing education requirements.

645—64.4(272C) Physical and mental disability or illness. The board may, in individual cases involving physical or mental disability or illness, grant waivers of the minimum education requirements or extension of time within which to fulfill the same or make the required reports. No waiver or extension of time shall be granted unless written application thereof shall be made on forms provided by the board and signed by the licensee and a physician licensed by the board of medical examiners. Waivers of the minimum educational requirements may be granted by the board for a period of time not to exceed one calendar year. In the event that physical or mental disability or illness upon which a waiver has been granted continues beyond the period of the waiver, the licensee must apply for an extension of the waiver. The board may, as a condition of any waiver granted, require the applicant to make up a certain portion or all of the minimum educational requirements waived by such methods as may be prescribed by the board.

645—64.5(272C) Exemptions for inactive licensees. A licensee who is not engaged in the practice in the state of Iowa residing in or without the state of Iowa may be granted a waiver of compliance and obtain a certificate of exemption upon written application to the board. The application shall contain a statement that the applicant will not engage in the practice in the state of Iowa without first complying with all regulations governing reinstatement after exemption. The application for a certificate of exemption shall be submitted upon the form provided by the board. A licensee must be currently licensed to apply for exempt status.

645—64.6(272C) Standards of approval. A continuing education activity shall be qualified for approval of the board if the board determines that:

64.6(1) It constitutes an organized program of learning which contributes directly to the professional competency of the licensee; and

64.6(2) It pertains to subjects which are integrally related to the practice and shall include sanitation, sterilization and Iowa law; and

64.6(3) It is conducted by individuals who hold an active cosmetology arts and sciences license and have special education, training and experience or by other persons who by reason of special education, training and experience said individuals would be considered experts concerning the subject matter of the program, and it is accompanied by a paper, manual or written outline which substantively pertains to the subject matter of the program. At least one instructor or the person in charge shall be licensed in a practice under 645—Chapter 60. A resume of all continuing education instructors shall be on file with the board.

645—64.7(272C) Accreditation of sponsors. An educational institution, e.g., cosmetology school of arts and sciences, merged area school, university or professional society not previously accredited by the board which desires accreditation as a sponsor of courses, programs, or other continuing education activities shall apply for accreditation to the board stating its education history relating to the practices under 645—Chapter 60 for the preceding two years,

including approximate dates, subjects offered, total hours of instruction presented, and the names and qualifications of instructors.

64.7(1) An educational institution or professional society other than an accredited sponsor, which desires prior approval of a course, program or other continuing education activity or which desires to establish accreditation of such activity prior to attendance thereat, shall apply for approval to the board at least 90 days in advance of the commencement of the activity on a form provided by the board. The board shall approve or deny such application in writing within 60 days of receipt of such application. The application shall state the dates, subjects offered, total hours of instruction, names and qualifications of speakers, applicable fee and other pertinent information.

64.7(2) By March 31 of each year all accredited sponsors shall report to the board in writing the educational programs conducted during the preceding 12-month period on a form provided by the board.

64.7(3) Prior notice. All accredited sponsors shall submit to the board at least 30 days in advance of the program the dates, locations, and instructors for all intended educational programs. All promotional material shall prominently display the approved sponsor's name. Program credit may be denied if the foregoing is not complied with fully.

EXCEPTION: Approved cosmetology school sponsors may assist licensees to reinstate by providing an individual with continuing education classes, waiving the 30-day notice requirement upon written request to the board.

64.7(4) Reevaluation. The board may at any time reevaluate an accredited sponsor. If, after such reevaluation, the board finds there is basis for consideration of revocation of the accreditation of an accredited sponsor, the board shall give notice by ordinary mail to that sponsor of a hearing on such possible revocation at least 30 days prior to said hearing.

64.7(5) Monitoring. The board may monitor or review any continuing education program already approved by the board and upon evidence of significant variation in the program presented from the program approved may disapprove all or any part of the approved hours granted the program.

64.7(6) Hearings. In the event of denial, in whole or part, of any application for approval of a continuing education program or credit for continuing education activity, the applicant or licensee shall have the right, within 20 days after the sending of notification of the denial by ordinary mail, to request a hearing which shall be held within 60 days after receipt of the request for a hearing. The hearing shall be conducted by the board or a qualified administrative law judge designated by the board. If the hearing is conducted by an administrative law judge, the administrative law judge shall submit a transcript or a tape recording of the hearing, including exhibits, to the board after the hearing with the proposed decision of the administrative law judge. The board adopts the rules of the Iowa department of public health, 641—Chapter 173, for hearings.

645—64.8(272C) Attendance record. The accredited sponsor of continuing education activities shall make a written record of the Iowa licensees in attendance and send a signed copy of such attendance record to the board upon completion of the educational activity, but in no case later than March 31 following the date of the continuing education activities. The report shall be sent to the Board of Cosmetology Arts and Sciences Examiners, Iowa Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075.

These rules are intended to implement Iowa Code sections 272C.1, 272C.2 and 272C.3.

[Filed 6/20/78, Notice 5/3/78—published 7/12/78, effective 8/16/78]

[Filed 8/3/79, Notice 6/27/79—published 8/22/79, effective 9/26/79]

[Filed 2/12/82, Notice 12/23/81—published 3/3/82, effective 4/9/82]

[Filed 10/6/83, Notice 7/20/83—published 10/26/83, effective 11/30/83]

[Filed emergency 8/31/84—published 9/26/84, effective 8/31/84]

[Filed 10/4/85, Notice 8/28/85—published 10/23/85, effective 11/27/85]

[Filed emergency 7/10/87—published 7/29/87, effective 7/10/87]
[Filed 5/25/89, Notice 4/5/89—published 6/14/89, effective 7/19/89]
[Filed 8/4/89, Notice 6/14/89—published 8/23/89, effective 9/27/89]
[Filed 2/2/90, Notice 12/27/89—published 2/21/90, effective 3/28/90]
[Filed 12/4/92, Notice 8/5/92—published 12/23/92, effective 1/29/93]
[Filed 2/11/94, Notice 10/27/93—published 3/2/94, effective 4/6/94]



CHAPTER 65

DISCIPLINARY PROCEDURES FOR
COSMETOLOGY ARTS AND SCIENCES
LICENSEES

[Prior to 7/29/87, Health Department(470) Ch 151]

[Prior to IAC 12/23/92, see 645—Chapter 62]

645—65.1(272C) Complaint. A complaint of a licensee's professional misconduct shall be made in writing by any person to the Board of Cosmetology Arts and Sciences Examiners, Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075. The complaint shall include complainant's address and phone number, shall be signed and dated by the complainant, shall identify the licensee, and shall give the address and any other information about the licensee which the complainant may have concerning the matter.

645—65.2(272C) Report of malpractice claims or actions. Each licensee shall submit a copy of any judgment or settlement in a malpractice claim or action to the board within 30 days after the occurrence at the address given in rule 645—65.1(272C).

645—65.3(272C) Investigation of complaints or malpractice claims. The chair of the board of cosmetology arts and sciences examiners shall assign an investigation of a complaint or malpractice claim to a member of the board who will be known as the investigating board member; or the board may request the department to investigate the complaint or malpractice claim and the department may request that the Iowa department of inspections and appeals investigate the complaint or malpractice claim. The investigating board member or employee of the department or employee of the Iowa department of inspections and appeals may request information from any peer review committee which may be established to assist the board. The investigating board member or employee of the department or employee of the Iowa department of inspections and appeals may consult with the assistant attorney general concerning the investigation. The investigating board member (if the board member investigates the complaint), the board administrator, bureau chief of the division of professional licensure, or an assistant attorney general (if the department or the Iowa department of inspections and appeals investigates the complaint) shall make a written determination whether there is probable cause for a disciplinary hearing. If a board member investigates the complaint, that investigating board member shall not take part in the decision of the board, but may appear as a witness.

645—65.4(272C) Alternative procedure.

65.4(1) A disciplinary hearing before the licensing board is an alternative to the procedure provided in Iowa Code sections 147.58 to 147.71.

65.4(2) Informal settlement—parties.

a. A contested case may be resolved by informal settlement. Negotiation of an informal settlement may be initiated by the state of Iowa represented by the prosecuting attorney, the respondent or the board. The board may designate a board member with authority to negotiate on behalf of the board.

b. The board is not involved in negotiation until presentation of a final, written form to the full board for approval.

65.4(3) Informal settlement—waiver of notice and opportunity to be heard. Consent to negotiation by the respondent constitutes a waiver of notice and opportunity to be heard pursuant to Iowa Code section 17A.17 during informal settlement negotiation. Thereafter, the prosecuting attorney is authorized to discuss informal settlement with the board's designee.

65.4(4) Informal settlement—board approval. All informal settlements are subject to approval of a majority of the full board. No informal settlement shall be presented to the board

for approval except in the final, written form executed by the respondent. If the board fails to approve the informal settlement, it shall be of no force or effect to either party.

65.4(5) Informal settlement—disqualification of designee. A board member who is designated to act in negotiation of an informal settlement is not disqualified from participating in the adjudication of the contested case.

645—65.5(272C) License denial. Any request for a hearing before the board concerning the denial of a license shall be submitted by the applicant in writing to the board at the address in rule 645—65.1(272C) by certified mail, return receipt requested, within 30 days of the mailing of a notice of denial of license.

645—65.6(272C) Notice of hearing. If there is a finding of probable cause for a disciplinary hearing by the investigating board member or by the department, the department shall prepare the notice of hearing and transmit the notice of hearing to the respondent by certified mail, return receipt requested, at least ten days before the date of the hearing.

645—65.7(272C) Hearings open to public. A hearing of a licensing board concerning a licensee or an applicant shall be open to the public unless the licensee or applicant or the attorney requests in writing that the hearing be closed to the public.

645—65.8(272C) Hearings. The board adopts the rules of the Iowa department of public health found in 641—Chapter 173 as the procedure for hearings before the board. The board may authorize an administrative law judge to conduct the hearings, administer oaths, issue subpoenas, and prepare written findings of fact, conclusions of law, and a decision at the direction of the board. If a majority of the board does not hear the disciplinary proceedings, a recording or a transcript of the proceedings shall be made available to the members of the board who did not hear the proceeding.

645—65.9(272C) Appeal. Any appeal to the district court from a disciplinary action of the board or denial of license shall be taken within 30 days from the issuance of the decision by the board. It is not necessary to request a rehearing before the board to appeal to the district court.

645—65.10(272C) Transcript. The party who appeals a decision of the board to the district court shall pay the cost of the preparation of a transcript of the administrative hearing for the district court.

645—65.11(272C) Publications of decisions. Final decisions of the board relating to disciplinary proceedings shall be transmitted to the appropriate professional association, the news media and employer.

645—65.12(272C) Discipline. For all acts and offenses listed in this rule, the board may impose any of the disciplinary methods outlined in Iowa Code section 272C.3(2) “a” to “f,” including the imposition of a civil penalty which shall not exceed \$1,000. The board may discipline a licensee for any of the following reasons:

65.12(1) All grounds listed in Iowa Code section 147.55 which are:

a. Fraud in procuring a license.

b. Professional incompetency:

(1) A substantial lack of knowledge or ability to discharge professional obligations within the scope of the licensee’s practice; or

(2) A willful or repeated departure from, or the failure to conform to the minimal standard of, accepted or prevailing practice.

c. Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of a profession or engaging in unethical conduct or practice harmful or detrimental to the public. Proof of actual injury need not be established.

d. Habitual intoxication or addiction to the use of drugs.

e. Conviction of a felony related to the profession or occupation of the licensee or the conviction of a felony that would affect the licensee's ability to practice within a profession which includes, but is not limited to, a felonious act which is so contrary to honesty, justice or good morals and so reprehensible as to violate the public confidence and trust imposed upon the licensee.

f. Fraud in representations as to skill or ability.

g. Use of untruthful or improbable statements in advertisements.

h. Willful or repeated violations of the provisions of Iowa Code chapter 147.

65.12(2) Violation of the rules promulgated by the board.

65.12(3) Violation of the terms of a decision and order issued by the board.

65.12(4) Violation of the terms of a settlement agreement entered into and issued by the board.

65.12(5) Personal disqualifications:

a. Mental or physical inability reasonably related to and adversely affecting the licensee's ability to practice in a safe and competent manner.

b. Involuntary commitment for the treatment of mental illness, drug addiction or alcoholism.

65.12(6) Practicing the profession while the license is under suspension, lapsed or delinquent for any reason.

65.12(7) Suspension or revocation of license by another state.

65.12(8) Negligence by the licensee in the practice of the profession, which is a failure to exercise due care including negligent delegation to or supervision of employees or other individuals, whether or not injury results; or any conduct, practice or conditions which impair the ability to safely and skillfully practice the profession.

65.12(9) Prohibited acts consisting of the following:

a. Permitting an unlicensed employee or person under the licensee's control to perform activities requiring a license.

b. Permitting another person to use the licensee's license for any other purpose.

c. Practice outside the scope of a license.

d. Obtaining, possessing, or attempting to obtain or possess a controlled substance without lawful authority; or selling, prescribing, giving away, or administering controlled substances.

e. Verbally or physically abusing clients.

f. Permitting a licensed person under the licensee's control to practice outside the scope of the person's license.

65.12(10) Unethical business practices, consisting of any of the following:

a. False or misleading advertising.

b. Betrayal of a professional confidence.

c. Promotion for personal gain of an unnecessary drug, device, treatment, procedure, or service (directing or requiring an individual to purchase or secure a drug, device, treatment, procedure, or service from a person, place, facility, or business in which the licensee has a financial interest).

65.12(11) Failure to report a change of name or mailing address.

65.12(12) Failure to submit continuing education certificate with license renewal by March 31 of renewal year.

65.12(13) Failure to complete the required continuing education within the compliance period.

65.12(14) Submission of a false report of continuing education, or failure to submit the annual report of continuing education.

65.12(15) Failure to return, by ordinary mail, to the department the salon license within 30 days of discontinuance of business under that license.

65.12(16) Failure to notify the board within 30 days after occurrence of any judgment or settlement of a malpractice claim or action.

65.12(17) Failure to comply with a subpoena issued by the board.

65.12(18) Failure to report to the board as provided in rule 645—65.1(272C) any violation by another licensee of the reasons for a disciplinary action as listed in this rule.

65.12(19) Performing any of those practices coming within the jurisdiction of the board pursuant to Iowa Code chapter 157 with or without compensation in any place other than a licensed salon, a licensed school of cosmetology arts and sciences, or a licensed barbershop as defined in Iowa Code section 158.1 except that a licensee may practice at a location which is not a licensed salon or school of cosmetology arts and sciences under extenuating circumstances arising from physical or mental disability or death of a customer.

645—65.13(272C) Peer review committee.

65.13(1) Each peer review committee for the profession, if established, may register with the board of examiners within 30 days after the effective date of these rules or within 30 days after formation.

65.13(2) Each peer review committee shall report in writing within 30 days of the review any complaint or other act or omission which the board reasonably believes constitutes cause for licensee discipline.

65.13(3) The board may appoint peer review committees as needed consisting of not more than five persons who are licensed to practice cosmetology to advise the board on standards of practice and other matters relating to specific complaints as requested by the board. The peer review committee shall observe the requirements of confidentiality provided in Iowa Code section 272C.6.

645—65.14 to 65.100 Reserved.

645—65.101(272C) Conduct of persons attending meetings.

65.101(1) The person presiding at a meeting of the board may exclude a person from an open meeting for behavior that obstructs the meeting.

65.101(2) Cameras and recording devices may be used at open meetings provided they do not obstruct the meeting. If the user of a camera or recording device obstructs the meeting by the use of such device, the person presiding may request the person to discontinue use of the camera or device. If the person persists in use of the device or camera, that person shall be ordered excluded from the meeting by order of the board member at the meeting.

These rules are intended to implement Iowa Code sections 21.7, 272C.4, 272C.5, and 272C.6.

[Filed 10/4/85, Notice 8/28/85—published 10/23/85, effective 11/27/85]

[Filed emergency 7/10/87—published 7/29/87, effective 7/10/87]

[Filed 8/4/89, Notice 6/14/89—published 8/23/89, effective 9/27/89]

[Filed 2/2/90, Notice 12/27/89—published 2/21/90, effective 3/28/90]

[Filed 9/27/91, Notice 6/12/91—published 10/16/91, effective 11/20/91]

[Filed 12/4/92, Notice 8/5/92—published 12/23/92, effective 1/29/93]

[Filed 2/11/94, Notice 10/27/93—published 3/2/94, effective 4/6/94]

CHAPTER 20
GOVERNOR'S TRAFFIC SAFETY BUREAU
(Prior to 4/20/88, see Planning and Programming, 630—Ch 12)

661—20.1(23USC402,PL89-564,7) Authority. Title 23 U.S.C. section 402(b)(1) states: "The Secretary shall not approve any state highway safety program under this section which does not . . . (A) provide that the Governor of the state shall be responsible for the administration of the program."

20.1(1) The governor has designated the commissioner of the department of public safety as governor's highway safety representative for Iowa in Governor's Executive Order Number Twenty-Three.

20.1(2) The governor's traffic safety bureau will be administered in the department of public safety in accordance with provisions of chapter 7 and Governor's Executive Order Number Twenty-Three.

661—20.2(23USC402,PL89-564) Purpose. The purpose of the highway safety program is to provide a coordinated federal, state and local effort to reduce traffic-related deaths, injuries, and property damage crashes.

20.2(1) The purpose of the six federally established highway safety standard areas is to provide a guide to program involvement and reimbursement. These highway safety areas are: alcohol; police traffic services; emergency medical services; traffic records; occupant restraints; and engineering. Funding is available to bring the highway safety standard areas up to a federally approved level, but federal and state emphasis is on impact programs which reduce traffic fatalities.

20.2(2) Reserved.

661—20.3(PL89-564) Responsibility. The governor's traffic safety bureau shall develop and prepare the highway safety plan based on evaluation of highway crashes and traffic safety problems within the state and establish priorities for same.

20.3(1) The governor's traffic safety bureau will encourage and assist local units of government in improving their traffic safety programs.

20.3(2) The governor's traffic safety bureau will serve as a reviewing authority of federal and state traffic safety programs and comment to the governor on their effectiveness, when appropriate.

20.3(3) The governor's traffic safety bureau will monitor progress and audit expenditures of funds by state and local agencies as authorized by Title 23 U.S.C. 402.

20.3(4) The governor's traffic safety bureau will coordinate the state highway safety program with the various state agencies having the greatest interest and impact in reducing traffic fatalities.

20.3(5) Federally appropriated funds as set forth in P.L. 89-564, section 402, will be allocated by the governor's traffic safety bureau located in the department of public safety, based on: (1) Federally mandated projects; and (2) high fatality and personal injury crash causations and locations.

The following criteria will be used to rank Iowa's counties according to the severity of their highway safety problems:

- a. Fatal crashes by county.
- b. Personal injury crashes by county.
- c. Alcohol-related fatal crashes by county.
- d. Alcohol-related personal injury crashes by county.
- e. Vehicle miles of travel by county.
- f. Serious traffic offenses by county.

Eligibility of counties and cities within those counties for the limited federal funds available will be determined according to county rankings on the six listed criteria.

20.3(6) Highway safety proposals may be submitted at any time by eligible city, county, state, or nonprofit agency, but the proposals must be received prior to March 1 to be included in the next fiscal year. Initial proposals should include project title, statement of the highway safety problem supported by three years of crash data, what is being proposed to solve the problem, how it will be evaluated, a budget breakdown, and a letter of intent from the governing authority (mayor, city council, board of supervisors, or state department head).

Only written requests containing the above elements will be considered for funding. Assistance in developing and submitting a highway safety proposal may be obtained by contacting the Director, Governor's Traffic Safety Bureau, Department of Public Safety, Wallace State Office Building, Des Moines, Iowa 50319.

EXCEPTION: Applications for funding of programs pursuant to the authority of 23 U.S.C. 153 for federal fiscal year 1995 (October 1, 1994, through September 30, 1995) must be received by the governor's traffic safety bureau on or before June 1, 1994.

This rule is intended to implement Title 23 U.S.C. sections 153 and 402, Public Law 89-564.

661—20.4(PL89-564) Funding criterion. Pursuant to P.L. 89-564, Title 23 U.S.C 402(C), at least 40 percent of all federal funds apportioned under this section to a state for any fiscal year will be expended by the political subdivisions of that state in carrying out local highway safety programs authorized by the governor's representative for highway safety.

20.4(1) The political subdivision whose approved project meets state requirements to the satisfaction of the governor's representative for highway safety, contingent upon the availability of federal moneys, shall receive reimbursement for costs incurred in implementing the project. All final approval and program authority rests with the governor's representative for highway safety.

20.4(2) All approved eligible applicants must complete and administer their activity in accordance with the Iowa Highway Safety Program Policies and Procedures Manual 1979, as amended.

20.4(3) All forms including contract procedures, monitoring reports, progress and fiscal reports, and their explanations are contained in the Iowa Highway Safety Program Policies and Procedures Manual. Copies of this manual are available upon request from the Director, Governor's Traffic Safety Bureau, Department of Public Safety, Wallace State Office Building, Des Moines, Iowa 50319.

[Filed 7/15/75]

[Filed 5/27/77, Notice 9/8/76—published 6/15/77, effective 7/20/77]

[Filed 7/29/80, Notice 3/19/80—published 8/20/80, effective 9/24/80]

[Filed 2/13/81, Notice 10/29/80—published 3/4/81, effective 4/8/81]

[Filed 4/1/88, Notice 9/23/87—published 4/20/88, effective 5/25/88]

[Filed emergency 2/11/94—published 3/2/94, effective 3/1/94]

Servipak dialysis supplies	Stairway elevators	Transfer boards
Shelf trays	Steri-peel	Transfusion sets
Shower chairs	Stools	Tube sealers
Side rails	Stopcocks	Underpads
Sitz bath kit	Suction equipment	Urinals
Small-vein infusion kits	Sun lamps	Vacutainers
Specimen containers	Surgical bandages	Vacuum units
Spinal puncture trays	Surgical equipment	Vaporizers
Sponges (surgical)	Suspensories	Venous blood sets
	Sutures	Vibrators
	Thermometers	Whirlpools
	Toilet aids	X-ray film
	Tourniquets	

20.9(4) *“Prescribed”* shall mean a written prescription or an oral prescription, later reduced to writing, issued by:

a. Persons licensed by the state board of medical examiners to practice medicine or surgery in Iowa.

b. Persons licensed by the state board of medical examiners to practice osteopathic medicine or surgery in Iowa.

c. Persons licensed by the state board of podiatry to engage in the practice of podiatry in Iowa.

d. Persons licensed by the state board of dentistry to practice dentistry in Iowa.

e. Persons licensed prior to May 10, 1963, to practice osteopathy in Iowa.

f. Persons licensed by the optometry examiners as therapeutically certified optometrists.

g. Any other person authorized under Iowa law to dispense prescription drugs or medical devices requiring a prescription in the course of professional practice in this state.

h. Any person licensed in another state in a health field in which, under Iowa law, licensees in this state may legally prescribe drugs.

20.9(5) *Power devices.* Sales or rental of power devices especially designed to operate prosthetic, orthotic or orthopedic devices shall be exempt from tax.

This rule is intended to implement Iowa Code sections 422.45(15) and 423.4(4).

701—20.10(422,423) **Sales and rentals covered by Medicaid and Medicare.** Between July 1, 1992, and June 30, 1993, gross receipts from the sale or rental of drugs, devices, equipment and supplies (“medications”) which are covered by Title XVIII (Medicare) or Title XIX (Medicaid) of the federal Social Security Act are exempt from tax.

A “covered sale or rental” is one for which any portion of the cost of medications is paid by the state of Iowa or the federal government as required by the Medicaid or Medicare programs. A sale or rental is “covered” even if a user of medications is required to pay a certain percentage or fixed amount of its cost. Covered sales or rentals include those for which a user of medications is reimbursed the cost of a purchase or rental; or sales or rentals for which any portion of the cost is paid by any private insurance company administering the Medicaid or Medicare programs on behalf of the state of Iowa or the federal government. The direct purchase or rental of any medications by the state of Iowa or the federal government is exempt from tax under existing law, and this rule is not applicable to it.

For an extensive list of medications the purchase or rental of which is covered by Medicaid see 441—Chapter 78, Iowa Administrative Code.

701—20.11(422,423) Reporting. Retailers are required to keep records of and report the actual total gross sales for each filing or reporting period. A deduction may be taken for all tax exempt sales but a record must be kept to substantiate all deductions taken.

Certain retailers finding it difficult to maintain detailed records of their taxable and nontaxable retail sales may alleviate this difficulty by the use of a formula method which will reasonably approximate the actual taxable receipts.

Written approval must be obtained from the Audit and Compliance Division of the department to use a formula method. If a retailer requests an alternate formula, the retailer shall first list the reasons why an alternate formula is necessary, and secondly, shall outline the proposed formula in detail. If approval is given, the department reserves the right to withdraw or require an update in procedure at any time.

The use of the formula is an authorization for reporting the most accurate amount of taxable and nontaxable gross receipts but the retailer shall be responsible for the actual tax liability. Additional assessments may be made if an audit discloses the formula is not producing the proper tax payments.

These rules are intended to implement Iowa Code chapters 422 and 423.

[Filed July 1, 1974]

[Filed 11/5/76, Notice 9/22/76—published 12/1/76, effective 1/5/77]

[Filed 4/28/78, Notice 3/22/78—published 5/17/78, effective 7/1/78]

[Filed Emergency 4/28/78—published 5/17/78, effective 4/28/78]

[Filed 1/5/79, Notice 11/29/78—published 1/24/79, effective 2/28/79]

[Filed 3/15/79, Notice 2/7/79—published 4/4/79, effective 5/9/79]

[Filed 1/18/80, Notice 12/12/79—published 2/6/80, effective 3/12/80]

[Filed 10/4/85, Notice 8/14/85—published 10/23/85, effective 11/27/85]

[Filed emergency 11/14/86—published 12/17/86, effective 11/14/86]

[Filed 11/25/87, Notice 10/7/87—published 12/16/87, effective 1/20/88]

[Filed 11/25/87, Notice 10/21/87—published 12/16/87, effective 1/20/88]

[Filed 1/7/88, Notice 12/2/87—published 1/27/88, effective 3/2/88]

[Filed 3/3/88, Notice 1/27/88—published 3/23/88, effective 4/27/88]

[Filed 10/9/92, Notice 9/2/92—published 10/28/92, effective 12/2/92]

[Filed 12/30/93, Notice 11/10/93—published 1/19/94, effective 2/23/94]

GAMBLING

See also *LOTTERY DIVISION; RACING AND GAMING; TAXATION*

Administration 481—ch 100

Amusement concessions 481—100.2(2)a, 100.3(2), ch 101

Annual game night 481—100.2(2)e, 100.6(1)d, 100.31, 100.60—100.63

Assistance program, *see Therapy, Assistance Program below*

Beer/liquor establishments 185—4.9; 481—ch 102

Bingo 481—100.6(1), 100.13(8), ch 103; 701—17.1(5)t

Card games, *see Riverboat: Games below; Social below*

Commerce department supervision 181—1.4(5)

Definitions 481—100.1, 103.1

Devices, manufacturers/distributors 491—ch 22

Inspections 481—100.8, 103.17; 491—22.11, 22.22, 22.31

Licenses 481—100.2, 100.3, 100.12, 100.13, 100.30, 100.60, 101.1, 102.1, 103.2, 103.10, 103.18; 491—chs 20—22, 25.10, 25.16, 25.17, *see also Riverboat below*

Participation 481—100.4, 102.2, 103.7(4)

Prizes 481—100.6, 100.7(1), 101.2, 103.6; 701—17.21

Qualified organizations 481—100.2(2)f,g, 100.3(8), 100.6(1)b, 100.9, 100.30—100.36, 100.63(2), ch 103

Raffles 481—100.2(2)d, 100.4, 100.32, 100.50—100.52, 100.61; 701—17.1(5)t, 17.20

Receipts 481—100.13(1—4), 100.31(2), 100.33—100.35, 103.8, 103.13—103.15; 701—17.1, 17.20

Records 481—100.7, 100.8, 100.36, 103.10, 103.13, *see also Riverboat below*

Reports 481—100.3(3), 100.9, 100.10, 103.13, 103.16, *see also Riverboat below*

Riverboat

Administration 491—24.16

Admissions 491—25.19(6), 25.20

Capacity 491—25.12

Cashiers' cage 491—24.17(3), 24.18

Checks/credit cards 491—25.11(3)

Competition 491—22.30

Contracts 491—20.18

Counties, election petitions 721—21.820

Count room 491—24.25, 24.26, 24.31

Definitions 491—20.10(1,6), 20.15(1), 22.10(1)

Disciplinary procedures 491—22.28, 25.16

Employees/licenses

Drug/alcohol testing 491—4.27

Insurance 491—22.16

Investigation 491—20.13(1)c, 22.20, 22.21, 25.18(5,6)

License, *see Licensure below*

Ownership 491—24.14(7)d

Unions/labor organizations 491—4.29

Excursions, time period 491—25.13

Facilities 491—25.19

Firearms, possession 491—24.17

GAMBLING(*cont'd*)Riverboat(*cont'd*)

Games

Approval 491—26.18

Slot machines

Counting/recording 491—24.31, 24.32

Drop bucket 491—24.27, 24.31

Hardware 491—26.15(1)

Hopper 491—24.27, 24.30, 26.16(2)

Identification 491—24.28

Malfunction 491—26.15(3)

Monitoring 491—24.32

Payouts 491—24.29, 24.30, 26.15(6)

Progressive 491—26.17

Reports 491—25.21

Software 491—26.15(2,4,5)

Specifications 491—26.16

Types 491—25.11(2)*b*

Table

Authorization 491—25.11(2)*a,c*

Cash/prepaid vouchers 491—24.21

Closing 491—24.24

Craps 491—26.11

Credit requests 491—24.23

Drop boxes 491—24.19, 24.20, 24.26

Gambling aids 491—26.10(3)

Gaming chips, distribution/removal 491—24.22, 24.23

Losses, maximum 491—26.10(5)

Poker 491—26.19

Prohibitions 491—26.10(2)

Red dog 491—26.20

Roulette 491—26.13, 26.14

Twenty-one 491—26.10(4)*a*, 26.12Wager limitations 491—26.10(4), *see also specific game*

Hearings 491—20.10(9), 22.28(3), 25.17(2)

Insurance 491—22.16

Investigations 491—20.13(1)*c*, 22.20—22.22, 22.24, 25.18(5—7)

Licensure

Generally 491—chs 20—22, 25.10, 25.16, 25.17

Age requirement 491—22.14(2)

Applications 491—20.10, 20.11, 20.13, 20.20, 20.21, 21.11, 22.11, 22.13, 22.32, 25.10

Denial/suspension/revocation 491—20.14(1)*g*, 20.21(2)*f*, 22.11(2), 22.12, 22.13(2), 22.14(7), 22.17, 22.19(2), 22.20, 25.16, 25.17

Economic/demographic data 491—20.14, 21.10, 22.11(5)

Emergency 491—22.19

Excursion route/docking facilities 491—20.12

Expiration/renewal 491—20.10(5)*l*, 22.18

Fees 491—20.20, 22.13(1), 22.14(3)

Manufacturers/distributors 491—22.10(2,3), 22.13, 22.18, 22.27, 22.31

GAMBLING(*cont'd*)Riverboat(*cont'd*)Licensure(*cont'd*)

Number granted 491—21.11

Occupational 491—22.10(5), 22.14, 22.18, 22.27, 22.31, 25.17(1)

Probationary 491—22.15

Standards 491—22.11(6)

Temporary 491—22.14(1)*d*, 22.19, 22.20

Vendors 491—22.10(4), 22.18, 22.27, 22.31

Officials 491—25.16, 25.17(2), 25.18

Patrons, ejection/exclusion 491—25.17(3), 25.18(3), 25.19(5)

Records 491—22.27, 24.10, 24.12, 24.15, 24.30, 24.31(8), 24.32

Reports/forms 491—24.13–24.15, 24.26, 24.30, 25.14(3), 25.18(6), 25.21

Rules, *see Games above*

Search/seizure 491—22.31

Security 491—25.14

Standards, federal 491—25.12

Surveillance, closed circuit videotape 491—24.25(2), 24.31(6), 25.15; 661—ch 23

Taxation 491—21.10(2), 25.20; 701—17.25, 46.1(1), 107.12

Violations 491—22.29, 25.16, 25.18(8)

Rules, house 481—100.5, 101.4, 103.5; 491—ch 26

Schools 481—100.9(1), 100.60, 103.2"4"

Social 481—100.2(2)*c*, 100.6(1)*c*, 100.61, ch 102

Sports pools 481—102.2(4)

Taxation 481—100.3(8), 100.11, 100.30(3), 100.34, 103.6(6)*g*, 103.8; 491—21.10(2), 25.20; 701—12.3, 17.1(5)*e,t*, 17.20, 17.25, 46.1(1)*d-g*, 107.12, *see also**LOTTERY DIVISION; RACING AND GAMING*

Therapy, assistance program

Generally 441—ch 162

Contracts

Administration 441—162.4(8), 162.5(2)

Appeals 441—162.4(9)*g*, 162.8

Conditions of participation 441—162.4(9)

Exclusions 441—162.6

Outpatient services 441—162.4(7)

Termination 441—162.7

Definitions 441—162.1

Funding 441—162.2, 162.6(5)

Hotline 441—162.5

Outpatient program

Claims, agency 441—162.4(14)

Client case records 441—162.4(11)

Eligibility 441—162.4(2)

Facilities 441—162.4(12)

Fees 441—162.4(6,13)

Guidelines 441—162.4(1)

Intake activities 441—162.4(4)

Personnel 441—162.4(10)

Services 441—162.4(3)

Treatment 441—162.4(5)

Violations 481—100.3(6), 103.18; 491—22.29, 25.16, 25.17, 25.18(8)

GAME

See also *HUNTING*

Death, accidental 571—ch 80

Management areas

Fishing 571—83.2(4)

Hunting 571—ch 51, 108.1(2)

Trails 571—ch 67

Refuges 571—chs 52, 53, 66.2, 108.4

Salvage 571—ch 80, 111.3

Trapping, see *HUNTING*

GARBAGE

See also *WASTE*

Generally 641—ch 16

Health care facilities, see *HEALTH CARE FACILITIES*

Hospitals, see *HOSPITALS*

Junkyards 761—ch 116

Mass gatherings 641—19.4(4)

Vehicle permits 761—ch 513

GARDNER CABIN

Historical society site 223—1.5(6)*d*

GAS

See also *ENERGY; ENERGY AND GEOLOGICAL RESOURCES; FUEL; GAS UTILITIES*

Accidents 199—10.17, 12.6, 19.2(5)*b*, 19.8(2)

Additives, hazardous household materials 567—144.3

Amusement parks 347—62.8, 62.13, 62.17, 62.18(5)

Butane/propane taxation 701—18.2

Casinghead 565—51.1(8), 51.6(7,8)

Hazardous chemical risks 347—chs 110, 120, 130, 140

LP, see *PETROLEUM: Liquefied*

Medical use, see *HEALTH CARE FACILITIES: Oxygen; HOSPITALS: Anesthesia*

Meters

Generally 21—ch 85

Inspection 21—85.40

Liquefied petroleum (LP gas) 21—1.6(5), 85.40, 85.43—85.46

Seals, security 21—85.35, 85.42

Natural gas, liquefied 199—chs 10, 12; 661—5.275

Pipelines/storage 199—chs 10, 12; 761—115.25(1), 115.31, 115.32(2), 115.34, see also *Safety below*

Radioactive 641—41.2(35)

Safety 199—19.5, 19.8; 347—62.8; 661—5.4(3), 5.250, 5.251, 5.275, 5.300, 5.301, 5.303—5.305, 5.307, 5.310—5.313, 5.400, 5.450, 5.802

Turbine, contaminants 567—23.1(2)*aa*

Utility company 199—chs 19, 28, see also *GAS UTILITIES*

Wells 565—ch 51, see also *WELLS*

GASOHOL

See *TAXATION: Motor Fuel: Ethanol Blends*

GAS UTILITIES

Accidents 199—19.2(5)*b*, 19.8(2)

Accounting

Generally 199—chs 16, 23

Annual report 199—17.7, ch 23; 701—77.2

Definitions 199—16.3

Energy conservation programs 199—28.14

Federal Energy Regulatory Commission, uniform system 199—16.3, 18.1" *a*," 18.6

Operating revenues 199—17.6-17.8

Promotional/advertising expenses 199—16.3(7,8), 16.7, 16.8

Records 199—ch 18

Advertising/promotional practices

Accounting requirements 199—16.3(7,8), 16.7, 16.8

Energy

Assistance programs 199—19.4(15)*h*(5)

Conservation programs 199—28.5

Tariff information 199—7.4(6)*e*"24"

Appliances

Adjustment 199—19.4(18)*b,c*, 19.7(6)*b*

Definition 199—19.1(3)

Marketing 199—ch 34

Assessments 199—ch 17

Assets 199—ch 32

Bills, customers, *see Customers below*

Commerce department

See also COMMERCE DEPARTMENT

Accounting system 199—16.1, 16.3

Assessments 199—ch 17

Exemptions, hardships 199—16.1(1)*a*, 19.1(2)

Forms 199—ch 2, 7.4

Hearings/investigations 199—ch 7

Jurisdiction 181—1.4(6); 199—1.5, 9.1, 16.1(1), 19.1(1)

Penalties, civil 199—ch 8

Permits, pipelines 199—ch 10

Records/reports, *see Records below; Reports below*

Service, discontinuance, approval 199—7.12

Tariffs 199—7.4(4-7), 19.2(2-4)

Complaints 199—2.2(7-11), ch 6, 7.2(7)*a*, 7.5, 7.7, 19.1(3), 19.4(1)*i*, 19.4(19), 28.12, 34.7

Construction, mains/plants 199—10.16, 19.2(5)*c*, 19.3(10), 19.5; 761—ch 115

Contracts 199—19.2(4)*c*(7,8), 19.10(6), 19.11, 19.13(5,6), 19.14(6), 28.9, 31.3-31.5

GAS UTILITIES(*cont'd*)

Customers

See also Service below

Bills

Access 199—34.5

Adjustment 199—19.4(13), 19.10(7)

Assistance, low-income 199—19.4(15)*h*(5); 427—ch 10, 23.5(6)*b*

Budget billing 199—19.4(11)

Credits, refunds 199—19.10(7,8)

Estimate 199—19.3(3)*d*, 19.3(8), 19.4(8)*g*, 19.4(13)*b*

Forms 199—19.2(5)*f*, 19.4(8,9)

Home improvement loan repayment 199—28.13

Intervals 199—19.3(7)

Nonpayment, disconnection 199—19.4(10,11,15,16), 28.13

Nonutility services 199—34.6

Payment agreements 199—19.4(10,11,15,16)

Records 199—19.4(12)

Sales tax 199—19.4(8)*e, i*; 701—16.15, 16.50, 18.39

Complaints, *see Complaints above*

Contribution fund 199—19.14

Deposits 199—19.4(2-7), 19.4(16)*g*

Discounts 199—19.12

Information 199—19.4(1,9)

Notification, energy efficiency cost recovery 199—35.12

Definitions 199—16.3(7), 19.1(3), 19.3(10), 28.2, 35.2

Energy

See also ENERGY

Assistance, low-income 427—ch 10; 441—65.8, 65.108

Conservation programs, residential/commercial/apartment buildings

Generally 199—1.5(4), 19.9

Accounting 199—28.14

Advertising 199—28.5

Audits 199—28.6, 28.7

Benefits 199—28.4

Definitions 199—28.2

Improvements

Bids 199—28.9(2)

Consumer complaints 199—28.12

Financing 199—28.10, 28.13

Inspections 199—28.11

Installations 199—28.9

Efficiency planning/cost review

Advertising 199—16.3(7)"56," 16.3(8), 16.7(2)

Definitions 199—35.2

Nonrate regulated companies 199—ch 36

Plan approval 199—35.6

Recovery, expenditures/costs 199—35.12

Requirements 199—35.8, 35.10, 35.11, 36.5

Waivers 199—35.7

Iowa energy center/global warming center, funding 199—17.9

GAS UTILITIES(*cont'd*)

Franchises 199—16.3(8)"913.5," 19.2(5)a(9)

Gas

Definitions 199—19.1(3)

Heating value 199—19.7(6)

Leaks 199—19.2(5)d(6), 19.8(4)

Odorant 199—19.8(5)

Purchases 199—19.10, 19.11, 29.3(3)

Reserves, cost 199—19.15

Standards, *see Standards below*Hearings, *see COMMERCE DEPARTMENT*

Inspections 199—19.5(5), 19.6; 761—115.24(9)

Insurance 761—115.24(14)

Iowa Supplemental Energy Conservation Plan 199—ch 28, *see also Energy above*

Low-income financial assistance 199—19.4(15)h(3); 427—ch 10

Management, evaluation 199—ch 29

Maps

Filing 199—19.2(5)a

Pipelines/mains 199—19.4(1)a

Marketing 199—ch 34

Meters

Generally 199—19.3, 19.6

Accuracy 199—19.3, 19.4(13,14)

Apartment houses 199—19.3(1)b

Definition 199—19.1(3)

Exceptions 199—19.3(1)b

Inspection 199—19.6

Ownership 199—19.3(1)

Reading

Automated, off-premise 199—19.3(5)

Estimates 199—19.3(8), 19.4(13)b

Forms 199—19.3(3,4)

Intervals 199—19.3(7)

Records 199—19.2(5)e, 19.3(3,4)

Seals 21—85.35, 85.42; 199—19.4(15)c

Temporary 199—19.3(1)a(2), 19.3(9)

Tests, *generally* 199—19.6

Notices

Construction proposals 199—19.2(5)c

Disconnection 199—19.4(15)

Hearings 199—7.6

Rate changes 199—7.4, 19.2(5)h

Permits, highway facilities 761—115.4(1), 115.10, 115.24(17)

Pipelines, *generally* 199—chs 9, 10, 12, 19.10(5); 761—115.30, 115.31, 115.32(2), 115.34, 115.40(2), *see also Underground Storage below; PIPELINES*

Procurement plan 199—19.11

GAS UTILITIES(*cont'd*)

Rates

- Adjustments, gas purchases 199—19.10
- Case expense 199—7.3
- Changes, *generally* 199—7.4, 19.2(5)*h*
- Complaints 199—ch 6, 7.5, 7.7
- Definitions 199—7.4(1)
- Determination, reasonableness 199—ch 6, 7.4(3)
- Discount 199—19.12
- Increases
 - Application/petitions 199—7.2(10), 7.4, 7.5, 7.7(6)
 - Evidence 199—7.4(6,7)
 - Hearings/investigations 199—7.3, 7.4(3), 7.6—7.11
- Suspensions 199—7.4(12)
- Tariffs 199—7.4(4—7), 19.2, 19.12(3)*c*
- Tax liability 199—ch 30
- Transportation 199—19.12, 19.13(2)*d*, 19.13(4)
- Unregulated 199—7.4(1)*c*(2), 16.3(4,5), 19.2(2)

Records

- Generally* 199—ch 18
- Affiliates 199—ch 31
- Confidential 199—30.2
- Customer 199—19.4(7,12,19)
- Deposits, unclaimed 199—19.4(6)
- Interruptions, service 199—19.2(5)*d*, 19.7(7)
- Location 199—1.9
- Meter information 199—19.2(5)*e*, 19.3(3,4)
- Open 199—1.9
- Retention 199—18.6(2), 19.2(1), 19.4(7,12), 19.7(3)
- Service
 - Monthly 199—19.2(5)*d*
 - Nonutility 199—ch 33
- Relocation, highway facilities 761—115.4(7)*b*, 115.13(2), 115.24(15)
- Rental dwelling units 199—19.3(1)*b*, 19.4(15)*h*(4), 19.4(15)*i*(1); 427—10.3; 701—16.15
- Reorganization, assets 199—ch 32

Reports

- Generally* 199—19.2(5)
- Accidents 199—19.2(5)*b,g*
- Annual
 - Generally* 199—ch 23; 701—77.2
 - Confidential 199—19.13(5)
 - Funds, collection/distribution 199—19.14(5)
 - Gas requirement forecast 199—19.11(2)
 - Maps 199—19.2(5)*a*
 - Operating revenues 199—17.7
 - Procurement plan 199—19.11
 - Promotional practices 199—16.7(1)

GAS UTILITIES(cont'd)**Reports(cont'd)****Annual(cont'd)**

- Public inspection 199—1.9(4)e
- Purchased gas adjustments 199—19.10(2,8)
- Rate changes, *see Rates above*
- Service records 199—19.2(5)d

Deadline 199—19.2(5)j**Energy conservation programs 199—28.15****Rates, discount 199—19.12(4)****Reserves, natural gas 199—19.15****Right of way, highways 761—ch 115****Service****Areas 199—19.2(4)c(18)****Costs 199—33.4—33.7****Definitions 199—19.1(3)****Denial 199—19.4(16)****Disconnection****Generally 199—19.4(15)****Exceptions 199—19.4(16,17)****Nonpayment 199—19.4(10,11), 19.4(15)h,i, 28.13****Discontinuance/termination/transfer 199—7.12****Interruptions 199—19.1(3); 19.2(5)b,d, 19.7(7)****Records 199—19.2(5)d, ch 33****Standards 199—19.7, 33.6, 33.7****Temporary 199—19.3(1)a(2), 19.3(9)****Standards****Energy conservation strategies 199—19.9(1)****Engineering practices 199—19.5****Highway right of way 761—ch 115****Meters 199—19.5(2)e, 19.6****Pressure 199—19.7(4)****Safety 199—19.5(2), 19.7(2), 19.8****Service 199—19.7, 33.6, 33.7****Tariffs 199—1.9(4)f, 7.4(4-7), 19.1(3), 19.2(2-4), 19.4(19), 19.12(3)****Taxation****Annual report 701—77.2****Liability, revenue readjustment 199—ch 30****Local option, exemption 701—107.7, 107.9"5"****Sales 701—14.3(9), 16.15, 16.50, 17.9(4), 17.23, 18.5(3), 18.39, 18.45(3)a****Value, determination 701—ch 77****Transportation 199—19.10(5), 19.12, 19.13****Underground storage 199—chs 10, 12, 19.1(1); 565—ch 51; 761—115.8(1), 115.20(2), 115.22(1), 115.25(1), 115.30, 115.31, 115.32(2)****Violations/penalties 199—ch 8****GED (GENERAL EDUCATIONAL DEVELOPMENT TESTS)****Food stamp recipients 441—65.28(8)c, 65.128(8)c****High school equivalency certificates 281—ch 32**

GENERAL ASSEMBLY

See *LEGISLATURE*

GENERAL SERVICES DEPARTMENT

Address 401—1.2(1), 5.3, 5.17(1)

Appeals 401—1.4(2), 7.3(4), 7.6, 8.7, 9.5

Board of review, management department 541—1.8(1)

Buildings/grounds 401—1.2(3)*a*, 1.6, 1.7

Communications 401—1.2(3)*b*, ch 3, 7.5(1)

Data processing

Generally 401—chs 3, 8

Bids 401—8.4

Definitions 401—3.2(2), 8.2

Exceptions 401—8.5

Proposal review 401—8.3(2), 8.4(3)

Source 401—8.6

Declaratory rulings 401—1.4

Director 401—1.2(2)

Divisions 401—1.2(3)

Equipment 401—7.4(1), 7.5, 7.17, *see also Data Processing above*

Grants/funds 401—7.10-7.13

Hearings/appeals 401—8.7, 9.5; 481—1.6"3"

Motor vehicle dispatcher 401—1.2(3)*h*, 1.8, 7.5(3)

Parking, employees 401—ch 4

Photocopiers 401—5.2, 5.16, 7.5(2)

Printing

Generally 401—ch 5

Bids 401—5.8-5.10, 5.12

Contractors 401—5.5, 5.10(11), 5.11-5.14

Publications 401—5.17-5.20

Reports 401—5.4(3), 5.7, 5.15, 5.16

Purchasing

See also Vendors below

Area/community offices 401—7.9

Bids 401—5.8-5.10, 7.1, 7.3(2), ch 9, *see also BIDS AND BIDDING*

Blanket agreements 401—7.3(5), 9.1(6)

Contracts 401—7.3(1), 7.4, 7.10, 7.18, 9.1(5), 9.8

Data processing equipment, *see Data Processing above*

Direct 401—7.3(4), 7.4, 7.8

Funds, *see Grants/Funds above*

Orders 401—7.6, 7.15, 7.16

Prison industries 401—7.20

Reports 541—10.3(1)*d*

Small business, female/minority 401—9.8

GENERAL SERVICES DEPARTMENT(*cont'd*)

Records

- Generally, public/fair information* 401—ch 2
- Address 401—2.3(1)
- Confidential 401—2.9(2), 2.10—2.12, 2.13(2), 2.14
- Data processing 401—2.13(2)*a*, 2.15(13), 2.16
- Definitions 401—2.10
- Disclaimer 401—2.17
- Disclosure 401—2.9—2.11
- Fees 401—2.3(7)
- Open 401—2.9(1), 2.13(1), 2.15
- Personally identifiable information 401—2.14
- Satellite agencies 401—7.8, 7.11
- Shipments 401—5.11, 7.15, 9.6
- Tax exemptions 401—9.3(9)
- Terrace Hill Commission
 - Board of trustees 401—16.1, 16.5
 - Definitions 401—14.1
 - Functions, public 401—14.7
 - Funds 401—14.4, 14.5
 - Gift shop 401—14.6
 - Musical arts endowment 401—ch 16
 - Organization 401—14.3
 - Tours 401—14.8
- Vendors
 - Appeal 401—8.7, 9.5
 - Bidding documents 401—5.10, 8.4, 9.3
 - Commodities, delivery/acceptance 401—5.11, 9.6
 - Discounts 401—9.3(6)
 - Eligibility 401—5.9, 9.2(1)
 - Forms 401—7.21, 9.2, 9.3
 - Payment 401—5.14, 7.15, 7.19, 9.7
 - Security 401—9.3(14)
 - Solicitation 401—1.7
 - Suspension/removal 401—9.2(2)

GEOLOGY

- Geological survey bureau 561—1.3(2)*g*; 565—chs 50, 51; 685—12.3(3), *see also*
ENERGY AND GEOLOGICAL RESOURCES: Oil/Gas/Metallic Mineral
Production
- Natural resources department authority 561—1.2(7), 1.3(2)*g*(2)
- Preserves 575—2.1(2)*d*

GINSENG

- Generally* 571—ch 78

GLANDERS/FARCY

See *LIVESTOCK: Disease*

GOATS

See *LIVESTOCK*

GOLF

Taxation 701—16.28

GOVERNOR

Agricultural development bond issuance 25—2.12
 Arts, new works commission 222—ch 28
 Campaigns
 Chair appointments, charitable 581—25.3
 Contributions, reports 121—ch 7
 Children, youth, and families commission, appointments 441—1.9
 Criminal/juvenile justice council administrator 428—1.4
 Dietetic examiners board 645—80.3(1)
 Disasters 361—7.4(1), 7.7; 567—52.10; 605—chs 1, 6, 7
 Emergency response commission 605—ch 100
 Fair board 371—1.2(2)
 Grants, accounting system certification 81—26.1
 Hospital licensing board 481—1.11
 Job training partnership program 261—19.3, 19.5—19.7, 19.52
 Labor-management, advisory council appointment 261—ch 10
 Lieutenant, campaign contributions 121—ch 7
 Long-term care coordinating unit, appointments 321—16.2(1)e
 Personnel commission, appointments 581—19.1(5)
 Persons with disabilities division, administrator 431—1.2(3)
 Prisoners, sentence commutation 205—ch 14
 Product development corporation, appointments 271—2.2
 Professional licensing, appointments 193—1.4
 Public health, advisory bodies 641—ch 191
 Rental rehabilitation waivers 261—26.10(2)
 Rural health advisory committee 641—110.3
 Status of blacks commission, appointments 434—1.1
 Terrace Hill 401—chs 14, 16
 Title guaranty board 265—9.3
 Traffic safety bureau 661—ch 20
 Youth programs 261—14.1

GRAIN

See also *WAREHOUSES*

Bargaining agents 21—6.14(4)b, 91.18—91.25

GRAIN(*cont'd*)

Bins, construction 199—25.2(3)

Bureaus

Statistics 21—1.2(5)

Marketing 21—1.3(1)

Warehouse 21—1.6(2), 90.7(1), 91.27

Commercial feed 21—ch 41, *see also FEED, COMMERCIAL*

Dealers

Assets 21—91.8(6-8), 91.14(2)

Bonds 21—91.8(5,9), 91.9, 91.17, 91.27

Complaint 21—91.19

Compliance 21—91.18

Credit sales 21—91.11(4)h, 91.11(6,7), 91.12, 91.17, 91.27, 92.3(1)

Fees 21—92.2-92.6, 93.8

Financial statements 21—91.8, 91.25"1"

Indemnity, *see Indemnity Fund below*

Inspections 21—91.11(3), 91.26

Letters of credit 21—91.9

Licenses 21—6.14(4)b, 91.3-91.10, 91.12, 91.16, 92.1, 92.4(2)

Notice 21—91.4, 91.14

Payment 21—91.10, 91.11(1)

Receipt 21—91.5

Records 21—6.14(4)b, 91.11

Reports 21—91.13, 92.4, 92.5

Definitions 21—85.7, 85.10, 90.3, 91.2, 92.3, 94.1

Drying 21—92.3; 701—17.2, 17.9(5)b, 18.44(1,2), 18.48(1)k, 18.48(5), 26.42(1)

Feed, ingredients 21—41.9(2)

Fees, *see Indemnity Fund below*

Fumigation, applicator certification 21—45.22(3)c

Indemnity fund

Assessable grain 21—92.3, 94.1, 94.2

Board

Address 21—93.1

Authority 21—1.1(6), 93.2-93.6

Fees 21—93.8

Records 21—93.7

Claims

Address/form 21—94.3

Appeal 21—91.27(5), 94.10

Payment 21—91.27(6), 94.11

Procedure 21—91.27, 94.3, 94.5-94.11

Report 21—91.27(6), 94.8, 94.9

Review 21—1.6(2)

Definitions 21—92.3, 94.1

Fees 21—92.2-92.6

Report 21—92.4

Industries, pollution 567—23.4(7), 26.4(1) Table V, 62.4(6)

Moisture 21—85.52-85.54, 85.57, 90.20, 90.27(10), 91.15

GRAIN(*cont'd*)

Pesticide level 21—45.45
 Records 21—6.14(4)*b*, 6.14(5)*b,c*, 91.11, 91.24
 Referendum 21—20.2"2,3"
 Sales information 21—90.19, 91.23
 Scales 21—85.7, 85.10, 85.63, 91.11(5), *see also Shrinkage below*
 Shrinkage 21—90.18(1), 90.28, 91.15
 Storage 21—90.12(1), 90.22, 90.24, 90.25, 90.27
 Transportation 761—400.47

GRANTS

See also ECONOMIC DEVELOPMENT DEPARTMENT

Abuse

Child 441—ch 155

Domestic 61—9.10, 9.12

Acquired immune deficiency syndrome (AIDS), *see Public Health below*

Adoption 441—ch 160

Agricultural loan assistance 25—6.4, 6.5

Agriculture/land stewardship department 21—chs 10, 15

Aid to dependent children, *see Families: Investment Program below*

Airport development, *see Transportation Department below*

Arts, *see ART; CULTURAL AFFAIRS DEPARTMENT*

Auditor certification 81—ch 26

Blind 111—1.11, 10.6(4)

Block

Community development, nonentitlement areas

Application 261—23.7—23.9, 23.11, 23.13(5)*a*

Assessment 261—23.4(2)

Audits 261—23.13(3)*c*

Builder program 261—23.7(5)*e*, 23.9(5)*b(6)*, 23.11(5)*d*, ch 80

Compliance 261—23.5(1)*k*, 23.13(3,10,11)

Contracts 261—23.13(1,3,8,12)

Definitions 261—23.2

Eligibility 261—23.3—23.5, 23.8(4), 23.9(3), 23.13(2)

Forms 261—23.13(4)

Fund allocation

Generally 261—23.6

Competitive program 261—23.6(3,4), 23.7

Flood recovery 261—23.7(1)*a*, 23.6(8), 23.16

Gap financing 261—23.5(2)

Imminent threat program 261—23.6(5), 23.10, 23.13, 23.16

Limits 261—23.6(8), 23.8(4)*g*, 23.13(12)

Loans, revolving 261—23.8(8)

Multipurpose 261—23.7(1,7)

Recaptured 261—23.6(7)

Set-aside 261—23.5(1), 23.6(4,6), 23.6(8)*b-d*, 23.8, 23.9, 23.11

Technical assistance 261—23.6(2)

GRANTS(*cont'd*)Block(*cont'd*)Community development, nonentitlement areas(*cont'd*)

Projects, changes 261—23.13(3)e, 23.13(8)

Records 261—23.13(5)

Reports 261—23.13(6)

Standards 261—23.13(3)

Community services

Agency termination/redesignation 427—22.11, 22.12, 24.16

Application 427—22.4—22.6

Definitions 427—22.2, 24.2

Eligibility 427—22.4, 24.5

Funds 427—22.3, 22.5—22.10, 22.12—22.15, 24.3—24.7, 24.11, 24.15, 24.16

Purpose 427—22.1, 24.1

Records/audits 427—22.10, 24.14

Reports 427—22.7, 24.12, 24.13

Requisition packet 427—22.7

Energy assistance, low-income home 427—ch 10

Human services, *see HUMAN SERVICES DEPARTMENT*

Maternal/child health (MCH) 641—ch 76

Review procedure 261—38.6(5)

Boxing 347—chs 94, 95

Business 261—chs 7, 11; 267—1.3, ch 3; 851—chs 10, 11, *see also SMALL BUSINESS*

Children

See also Aid to Dependent Children above; Juvenile Justice below

Abuse prevention 441—9.11, ch 155

Adoption, special needs 441—ch 160

At-risk 281—chs 64, 65, 67

Care program 261—28.5; 441—153.1, 156.9, chs 159, 164, 168

Lead poisoning 641—ch 72

Maternal/child health 641—ch 76

Pregnancy prevention 441—ch 163

Cities, *see CITIES*

Clearinghouses 261—ch 38

Colleges, *see Education below*Community action agencies, *see COMMUNITY ACTION AGENCIES*Community development 261—chs 28, 66—68, *see also Block above*Community economic betterment program (CEBA) 261—chs 21, 22, *see also ECONOMIC DEVELOPMENT DEPARTMENT*

Community living arrangements 441—39.23

Counties, *see COUNTIES*Cultural, *see ART; CULTURAL AFFAIRS DEPARTMENT*

Developmental disabilities 441—1.7, 9.11, ch 38, 153.32—153.42, 153.51—153.59

Disasters 361—7.5(2), 7.7

Dislocated workers, *see Job Training Partnership Act (JTPA) below*Displaced workers 283—ch 29, *see also Homemakers, Displaced below*Economic development department, *see ECONOMIC DEVELOPMENT DEPARTMENT*

GRANTS(*cont'd*)

Education

See also LOANS; SCHOOLS

Access to education program 283—ch 27

Blind 111—10.6

Businesses, *see Industry/Small Business this subheading below*

Child development 281—ch 64

Displaced workers, financial aid 283—ch 29

Elementary, at-risk students 281—ch 65

Industry/small business 261—chs 7, 11

Iowa grant program 283—ch 27

Law schools, elderlaw 321—ch 13

Minorities 283—ch 22

Motorcycle rider/instructor preparation 281—26.9(5,6)

Osteopaths 283—ch 14

Piano majors 223—ch 16

Private institutions 283—ch 12

Research 261—ch 53; 681—12.8, 13.8, 15.7, 16.7

Rural rehabilitation 25—3.9-3.11

Scholarships 223—ch 16; 283—ch 11

Science/mathematics 283—chs 17, 26

Summer institute program 283—ch 17

Vocational/technical 281—1.1(5), ch 56; 283—ch 13, *see also Industry/Small Business this subheading above*

Elderly 261—14.6; 321—chs 5, 7, 10, 11, 13-15; 427—chs 5, 11, 22, 23;
761—ch 922, *see also COMMUNITY ACTION AGENCIES; ELDER AFFAIRS DEPARTMENT*

Emergency management, planning/training 605—ch 8

Emergency medical services, *see Public Health below*

Energy/energy conservation

See also ENERGY

Affordable heating program (AHP) 427—ch 11

Building energy management, *generally* 565—ch 17

Low-income home assistance (LIHEAP) 427—ch 10

Measures/audits 565—chs 7, 17, 18

Natural resources authority 561—1.3(2)g(1); 565—18.1

Petroleum overcharge 565—ch 19

Petroleum set-aside 565—ch 3

Schools/hospitals 565—ch 8

Solar 565—ch 16

Technical assistance 565—chs 8, 17

Weatherization 427—ch 5

Environmental protection commission

Sewage 567—chs 90, 91

Waste disposal 567—chs 209-211

Wells 567—ch 47

GRANTS(*cont'd*)

Families

Investment program, *see* FAMILY INVESTMENT PROGRAM (FIP)

Planning, *see* Public Health below

Welfare recipients, self-sufficiency program 441—ch 165

Foster care 441—156.9, ch 164

General services, purchasing 401—7.12

Governor's planning council for developmental disabilities (DD) 441—1.7, ch 38

Historic preservation 223—1.8, ch 35, 36.5, ch 49; 261—23.4(3)q, 28.5, chs 39, 42, 43,
see also ECONOMIC DEVELOPMENT DEPARTMENT

Homeless 261—ch 23; 427—ch 23; 441—39.23, *see also* Shelters, Homeless below

Homemakers, displaced 261—18.8, 19.21(2,6), 19.22(6); 435—ch 5

Housing 261—chs 23, 26, 28; 265—ch 15; 427—ch 22, *see also* Shelters, Homeless
below

Human services, *see* HUMAN SERVICES DEPARTMENT

Job Training Partnership Act (JTPA)

Generally 261—chs 4, 19

Address, council 261—19.4

Administration/purpose 261—19.1, 19.2, 19.4

Affirmative action/equal opportunity 261—19.52

Appeals 261—19.5(4), 19.83

Business-industry information/training network 261—ch 13

Complaint procedure

Local level, SDA grantees

Decisions 261—19.53(1)j,p

Discrimination 261—19.53(1)k, 19.53(2)

Employers 261—19.53(1)p

Hearings 261—19.53(1)d-f, 19.87

Records 261—19.53(1)g,o

State level

Generally 261—19.86(1)

Definitions 261—19.86(2)

Filing 261—19.86(4), 19.87

Hearings 261—19.86(5,7,8), 19.87

Informal settlement 261—19.86(6)

Review 261—19.86(3,19,20)

Coordinating council 261—19.4, 19.5(1)

Definitions 261—19.3, 19.86(2)

Dislocated workers 261—19.12-19.14, 19.22(5), 19.46(4)

Displaced workers, financial aid program 283—29.1(2)

Financial management 261—19.44

Homemakers, displaced 261—19.21(2,6), 19.22(6)

Management information system 261—19.51

Monitoring requirements 261—19.45

Procurement 261—19.46

Property 261—19.47

Records 261—19.50

Sanctions 261—19.80(6), 19.82, 19.83

GRANTS(*cont'd*)Job Training Partnership Act (JTPA)(*cont'd*)

Service delivery areas (SDA)

Generally 261—19.5, 19.6

Audits 261—19.41

Consortium agreements 261—19.7

Costs

Accounting system 261—19.44

Categories 261—19.42

Limitations 261—19.43

Unallowable 261—19.48

Debts 261—19.81

Designation 261—19.5, 19.6

Financial management 261—19.44

Incentive awards 261—19.77

Private industry council (PIC)/local elected officials (LEO)

Agreements 261—19.6-19.9, 19.17

Appointment/certification 261—19.8

Local training plans

Generally 261—19.18-19.20

Displaced homemaker 261—19.22(6)

Job service plan 261—19.17

Job training plan 261—19.10, 19.11

Master plan 261—19.21

Older individuals training program (3%) 261—19.15, 19.22(3)

State education coordination/grants (8%) 261—19.16, 19.22(4)

Subplans 261—19.22

Title III plan, dislocated worker 261—19.12-19.14, 19.22(5), 19.46(4)

Records 261—19.44, 19.50

Reports 261—19.49, 19.51

State administrative entity (SAE)

Audits 261—19.80

Complaints 261—19.53, 19.86

Costs 261—19.42, 19.48, 19.80

Debt collection 261—19.81

Financial management 261—19.44

Incentive awards 261—19.77

Management information system (MIS) 261—19.51

Reallocation 261—19.78

Reports 261—19.51, 19.80

Review system 261—19.79

Waivers 261—19.80(5)

Juvenile justice 428—3.6-3.14

Lead abatement 641—ch 72

Libraries 224—ch 6

Low-income 427—ch 10; 565—ch 19

Mental health 441—1.7, 32.3, 32.5, chs 38, 39, 153.31-153.42, 153.51-153.59

Mental retardation 441—32.3, 32.5, ch 39, 153.31-153.42, 153.51-153.59

GRANTS(*cont'd*)

Natural resources

- Administration 561—1.2(11), 1.3(2)*d,g,h*
- Community forestry challenge (CFCGP) 571—ch 34
- Energy programs 561—1.3(2)g(1); 565—18.1
- Land/water conservation fund
 - Application 571—27.5, 27.6, 27.9
 - Distribution 571—27.2
 - Eligibility 571—27.3
 - Limits 571—27.4
 - Projects
 - Amendments 571—27.10
 - Commencement deadlines 571—27.11, 27.12
 - Extensions 571—27.12
 - Records 571—27.15
 - Reimbursement 571—27.13
 - Review/selection 571—27.6-27.9
 - Purpose 571—27.1
 - Resource enhancement and protection (REAP) 571—ch 33
 - Water access, cost share program 571—30.10-30.13
 - Wildlife habitats
 - Application 571—23.4, 23.6-23.8
 - Deadline, project 571—23.10, 23.11
 - Eligibility 571—23.3, 23.5, 23.14(4)
 - Funds 571—23.2, 23.6(2,3), 23.9
 - Limits 571—23.4
 - Purpose 571—23.1
 - Reimbursement 571—23.12
- Nursing, *see Public Health below*
- Pregnancy prevention 441—9.11, ch 163
- PROMISE JOBS, *see WORK AND TRAINING PROGRAMS*
- Public health
 - Applications 641—ch 176
 - Diseases
 - Acquired immune deficiency syndrome (AIDS) 641—ch 11
 - Renal disease 641—ch 111
 - Emergency medical services 641—ch 130
 - Family planning 641—ch 74
 - Healthy family program 641—ch 87
 - Homemaker-home health aide 641—ch 80
 - Lead abatement 641—ch 72
 - Maternal/child health 641—ch 76
 - Nursing 641—ch 79, 110.6
 - Records 641—175.14(2)*i*, 175.14(6), 175.17
 - Review 641—170.4(2), 176.5
 - Substance abuse 643—ch 2
 - Water fluoridation program 641—ch 20
 - Women/infants/children (WIC) 641—73.22

GRANTS(*cont'd*)

- Railway finance 765—3.1(3)*a*
- Records, open/confidential 205—5.15(1)*b*"7"; 281—56.23(15)*e*; 441—9.11;
641—175.14(2)*i*, 175.17
- Recreation/tourism, *see Natural Resources above*
- Refugees 283—26.1(2)*d*; 441—ch 60
- Regents board, applications 261—38.9, 53.7—53.9; 681—12.8, 13.8, 15.7, 16.7
- Renal disease, *see Public Health above*
- Rental rehabilitation, *see Economic Development Department above*
- Research 261—chs 41, 53, 59; 267—chs 1, 3; 441—ch 38; 851—chs 10, 11,
see also Education above
- Review system, intergovernmental 261—ch 38
- RISE program, *see Transportation Department below*
- Rural areas
- Agricultural products, marketing 21—ch 10
 - Economic development projects 261—ch 66
 - Enterprise fund 261—ch 67
 - Historic preservation 261—ch 42
 - Leadership development 261—ch 68
 - Students, rural rehabilitation fund 25—3.9—3.11
- Schools, *see SCHOOLS*
- Sesquicentennial 731—ch 2
- Sewage works construction, *see Environmental Protection Commission above*
- Shelters, homeless 261—ch 24; 265—ch 14
- Small businesses, *see SMALL BUSINESS*
- Substance abuse 643—ch 2
- Technology, research/development 267—chs 1, 3; 851—chs 10, 11
- Transportation department
- Airport development 761—ch 710
 - Intermodal project 761—201.4, 201.5(2)*j*, 201.6(2)
 - Mass transit 761—chs 920—922
 - RISE (revitalize Iowa's sound economy) program 761—ch 163
- Victim assistance/reparation, *see ATTORNEY GENERAL*
- Waste, solid, *see Environmental Protection Commission above*
- Water
- Fluoridation program 641—ch 20
 - Wells 567—ch 47
- Wildlife habitats, *see Natural Resources above*
- Women/infants/children (WIC), *see Public Health above*
- Youth affairs, *see Economic Development Department above*

GREENHOUSES

See NURSERIES, HORTICULTURAL

GREYHOUNDS

See RACING AND GAMING

GRIEVANCES

See also EMPLOYMENT: Appeals/Hearings

Merit employment 581—1.1, ch 12, *see also Regents Board below*

Public employment relations board (PERB) 621—ch 3

Racing/gaming 491—7.8(1)g,h

Regents board 681—3.14, 3.127-3.129, 12.9, 12.10

GROCCERS

See FOOD: Establishments

GROUNDWATER

See ENVIRONMENTAL PROTECTION COMMISSION; WATER

GUNS

See FIREARMS



Faint, illegible text

Faint, illegible text

Faint, illegible text

Faint, illegible text

Faint, illegible text

Faint, illegible text

Faint, illegible text

IDENTIFICATION

- Cards, nondrivers 761—ch 630
- Criminal investigation 661—ch 11
- Handicapped 761—ch 411
- Liquor purchases 185—13.1
- Mobile equipment 761—410.2
- Motor vehicles
 - Nonoperators 761—ch 630
 - Special fuel users 761—400.53
 - Transport carriers 761—528.3
 - Vehicle identification numbers 761—400.51
- Revenue/finance employees 701—11.3

IMMUNIZATION

See also LIVESTOCK: Disease: Vaccine/Vaccination

- Children 281—33.5; 641—ch 7
- Medicaid providers 441—78.1(2)e, 78.1(3), 78.18(1), 82.2(6)a(3)
- Pseudorabies 21—64.152
- Veterinary drugs, restrictions 811—ch 12

IMPOSTS

- Chemicals, hazardous 347—110.1(2)
- Chloramphenicol prohibition 21—66.12, 76.12
- Cigarettes, tax exemption 701—72.4(3)
- Permits, fish/wildlife 571—77.4(5,6), 89.2, 89.3
- Livestock, *see LIVESTOCK*
- Wildlife 571—77.4

INCOME TAX

See TAXATION

INCOME TAX CHECKOFF

See CHECKOFFS

INDIANS

- Artifacts, repository 685—ch 7
- Burial grounds, ancient 685—ch 11
- Education, multicultural approach 281—12.5(8)
- Elderly, planning/service areas 321—4.2(4)c(1), 6.4(2)k, 6.6(2)h, 7.2(1)a
- Food stamps 441—65.19(20)e, 65.119(20)e
- Homeless, mental illness 441—39.29
- Taxation 701—18.30, 33.5, 64.3"3," 82.4(5)b, 83.11(2)
- Toolesboro mounds 223—1.5(6)j

INDUSTRIAL LOAN COMPANIES*See LOANS***INDUSTRIAL SERVICES DIVISION***See also WORKERS' COMPENSATION*

Appliances, therapeutic 343—8.5

Commutation tables 343—6.2-6.4

Contested cases

Generally 343—ch 4

Alternate care 343—4.48

Binding arbitration 343—4.41, 4.42

Expedited 343—4.44

Health service disputes 343—4.46, 10.3

Second injury 343—4.47, 10.1(3,6)

Summary trials 343—4.41, 4.43

Declaratory rulings 343—ch 5

Employment services authority 341—1.1(5)

FAX (facsimile) document transmission 343—4.39

Forms 343—ch 3, 4.6, 6.4

Hearings/appeals 343—ch 4

Impairment, guide 343—2.4

Informal dispute resolution 343—4.41, ch 10

Organization 343—chs 1, 2

Payroll tax tables 343—8.8

Records

Generally, public/fair information 343—ch 9

Address 343—9.3(1), 9.13(1)d(8)

Confidential 343—9.9(2,3), 9.10(2), 9.11, 9.12(4,5), 9.13

Contested case 343—4.17, 4.30, 4.31, 8.9

Data processing 343—9.13

Definitions 343—9.1, 9.10(1)

Disclaimer 343—9.14

Disclosure 343—9.9-9.11, 9.14

Employers, occupational illness/injury 343—8.9

Fee 343—9.3(7), 9.6

Hearing (pre)conference 343—4.21

Open 343—9.1, 9.8, 9.9(1), 9.12(1-3), 9.13(1)d

Personally identifiable information 343—9.1, 9.13

Personnel 343—9.12(4)g, 9.13(1)c

Rule making 343—9.13(1)d(1),

Reports 347—4.4

Rule making 343—ch 7, 9.3(1)d(1)

Settlements 343—6.1

Time compensation 343—8.2, 8.6

Transportation expense 343—8.1