

## **HUMAN SERVICES DEPARTMENT[441]**

### **Notice of Intended Action**

Pursuant to the authority of 249A.4 and 2013 Iowa Acts, chapter 140 (Senate File 452), section 12, the Department of Human Services proposes to amend Chapter 79, “Other Policies Relating to Providers of Medical and Remedial Care,” Iowa Administrative Code.

Pursuant to 441--79.1(15), providers of Home- and Community-Based Services (HCBS) must complete a financial cost report for certain HCBS services annually. The fiscal year cost reports cover the 12 months of July through June, and the cost reports must be submitted to the Department by September 30 each year. The cost report accounts for all direct service and indirect administrative costs that have been incurred by a provider over the previous 12 months of service delivery, and the allowable costs in the report are used to establish future reimbursement rates. Staff training costs have historically been considered an indirect administrative expense for cost reporting purposes. And for Medicaid rate-setting purposes, indirect administrative costs are limited to 20% of other costs, by 441 Iowa Admin. Code 79.1(15)(b)(3). The proposed amendment provides that to the extent funding is appropriated, the reasonable costs of staff training will be treated as direct costs, rather than as indirect administrative cost subject to the 20% limit.

2013 Iowa Acts chapter 140 (S.F. 452), section 12 provided as follows:

“The department of human services shall adopt rules pursuant to chapter 17A to provide that reasonable costs of staff training incurred by providers of home and community-based services under the medical assistance program are reimbursable as direct costs.

Such reimbursement shall include reimbursement of the reasonable costs associated with

the learning management system utilized under the college of direct support training program.”

Since 2011, the Department has been funding the College of Direct Support training program referenced in the 2013 legislation. Due to that funding, the College of Direct Support has been free to providers and has reduced their training costs. Nonetheless, the provider community has estimated that training expenses are 1-2% of other expenses. And providers have also indicated that other indirect administrative costs equal or exceed the 20% limit. Based on that information, the Department estimates that treating the reasonable costs of staff training as direct costs would increase provider reimbursement by \$3.4 to 6.8 million annually (state share \$1.5-\$3.0M). In 2013, the legislature appropriated \$300,000 for that purpose for the six months of January through June of 2014. See 2013 Iowa Acts chapter 138 (S.F. 446), section 12, item 24. But that is just 40% of the state share for the minimum estimated six-month cost (\$750,000). Further, the Iowa Association of Community Providers (IACP), which represents HCBS providers, objected to the implementation of a change in how costs are allocated in the middle of a cost reporting period, which would have required providers to submit two cost reports for that period. Rather, the IACP requested that any change to cost reporting be postponed until July 1, 2014. Due to the inadequate appropriation and the timing concerns, the Department postponed any change until July 1, 2014.

However, the Department’s appropriation for the state fiscal year beginning July 1, 2014, did not include any additional funds for treatment of staff training costs as direct costs. Therefore, the Department has not taken any action to amend the rules as directed by 2013 Iowa Acts chapter 140 (S.F. 452), section 12, though it has continued to fund the College of Direct Support, reducing providers staff training costs.

On October 6, 2014, the Department received a petition for rulemaking to implement 2013 Iowa Acts, chapter 140 (S.F. 452), section 12. The Department believes that the legislature needs to address the extent to which staff training costs should be treated as direct costs, in light of the College of Direct Support, and provide appropriate funding. Therefore, pursuant to the petition for rulemaking, the Department is now proposing a rule amendment providing for treatment of the reasonable costs of staff training as direct costs to the extent funding is specifically appropriated for that purpose.

Any interested person may make written comments on the proposed amendments on or before January 27, 2015. Comments should be directed to Harry Rossander, Bureau of Policy Coordination, Department of Human Services, Hoover State Office Building, 5<sup>th</sup> Floor, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515) 281-4980 or by email to [policyanalysis@dhs.state.ia.us](mailto:policyanalysis@dhs.state.ia.us).

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

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

These amendments are intended to implement 249A.4 and 2013 Iowa Acts, chapter 140 (Senate File 452), section 12, Iowa Administrative Code.

The following amendment is proposed.

Adopt the following **new** subparagraph **79.1(15)“b”(9)**:

**(9) To the to the extent funding is specifically appropriated by the legislature for this purpose for a state fiscal year, reasonable costs of staff training shall be treated as direct care costs, rather than as indirect administrative costs, in determining reimbursement rates for the fiscal year.**

## Information on Proposed Rules

Name of Program Specialist	Telephone Number	E-mail Address
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1. Give a brief summary of the rule changes:  
 Pursuant to 79.1(15), providers of HCBS services must complete a financial cost report for certain HCBS services annually. The fiscal year cost reports cover the 12 months of July through June, and the cost reports must be submitted to the department by September 30 each year. The cost report accounts for all direct service and indirect administrative costs that have been incurred by a provider over the previous 12 months of service delivery, and the allowable costs in the report are used to establish future reimbursement rates. Staff training costs have historically been considered an indirect administrative expense for cost reporting purposes. And for Medicaid rate-setting purposes, indirect administrative costs are limited to 20% of other costs, by 441 Iowa Admin. Code 79.1(15)(b)(3). The proposed amendment provides that to the extent funding is appropriated, the reasonable costs of staff training will be treated as direct costs, rather than as indirect administrative cost subject to the 20% limit.
  
2. What is the legal basis for the change? (Cite the authorizing state and federal statutes and federal regulations):  
 2013 Iowa Acts chapter 140 (S.F. 452), section 12
  
3. Why is the Department requesting these changes?  
 2013 Iowa Acts chapter 140 (S.F. 452), section 12 provided as follows:  

The department of human services shall adopt rules pursuant to chapter 17A to provide that reasonable costs of staff training incurred by providers of home and community-based services under the medical assistance program are reimbursable as direct costs. Such reimbursement shall include reimbursement of the reasonable costs associated with the learning management system utilized under the college of direct support training program.

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However, the Departments appropriation for the state fiscal year beginning July 1, 2014, did not include any additional funds for treatment of staff training costs as direct costs.

Therefore, the Department has not taken any action to amend the rules as directed by 2013 Iowa Acts chapter 140 (S.F. 452), section 12, though it has continued to fund the College of Direct Support, reducing providers staff training costs.

On October 6, 2014, the Department received a petition for rulemaking to implement 2013 Iowa Acts chapter 140 (S.F. 452), section 12. The Department believes that the legislature needs to address the extent to which staff training costs should be treated as direct costs, in light of the College of Direct Support, and provide appropriate funding. Therefore, pursuant to the petition for rulemaking, the Department is now proposing a rule providing for treatment of the reasonable costs of staff training as direct costs to the extent funding is specifically appropriated for that purpose.

<p>4. What will be the effect of this rule making (who, what, when, how)?</p> <p>To the extent funding is appropriated, providers of Home and Community Based Services (HCBS) that submit annual cost reports for the calculation of retrospectively limited prospective rates will be allowed to include reasonable staff training expenses as direct costs. Assuming that other indirect administrative costs equal or exceed 20% of direct care costs, as indicated by providers, the shift of training costs from indirect to direct costs will mean an increase in total allowable costs, which will increase reimbursement rates, subject to the upper maximum allowed by rule. As discussed above, the increase in reimbursement is estimated to be \$3.4- 6.8 million annually, in the aggregate, if all reasonable staff training costs are treated as direct costs.</p>
<p>5. What are the potential costs and benefits of this rule making to the persons affected?</p> <p>To the extent funding is appropriated, HCBS providers may receive increased reimbursement, as discussed above.</p>
<p>6. What are the potential costs and benefits of this rule to the state?</p> <p>As discussed above, the Department estimates the cost of treating staff training costs as direct care costs at \$3.4 – 6.8 million annually, if all reasonable staff training costs are treated as direct costs.</p>
<p>7. What are the likely areas of public comment or controversy?</p> <p>Providers will be in support of treating staff training costs as direct care costs. Providers may object to the provision allowing such treatment only to the extent funding is appropriated for that purpose.</p>
<p>8. Are there any alternatives to making these changes in rules that you considered and rejected?</p> <p>No, this change was legislatively mandated.</p>
<p>9. What will be the effect on other governmental bodies (federal or state agencies, county governments)?</p> <p>This rule will have no impact on other governmental bodies.</p>
<p>10. If rules do not contain waiver provisions, explain why:</p> <p>Specific waivers are not provided because all providers should be subject to the same cost reporting criteria and because the proposed change confers a benefit on those affected.</p>
<p>11. Do these rules have an impact on private-sector jobs and employment opportunities in Iowa? (If yes, describe nature of impact, categories and number of jobs affected, state regions affected, costs to employer per employee)</p> <p>If funded, this change may marginally increase private-sector jobs and employment opportunities with HCBS providers.</p>

# ADMINISTRATIVE RULE FISCAL IMPACT STATEMENT

Date: 12/4/2014

**Agency:** Human Services

**IAC citation:** IAC 441-79.1(15)b.

**Agency contact:** Brian Wines

**Summary of the rule:**

The proposed amendment provides that to the extent funding is appropriated; the reasonable costs of staff training will be treated as direct costs, rather than as indirect administrative cost subject to the 20% limit.

*Fill in this box if the impact meets these criteria:*

- No fiscal impact to the state.
- Fiscal impact of less than \$100,000 annually or \$500,000 over 5 years.
- Fiscal impact cannot be determined.

**Brief explanation:**

The provider community has estimated that staff training expenses, including salaries, are one to two percent of their total operating budget. Current expenses under HCBS for the services affected are estimated at \$340,598,493 for SFY14. Applying the training cost percentage estimate to these expenses results in a cost increase of \$3.4M to \$6.8M annually (\$1.5M to \$3.0M state share). But as the proposed rule is written, there will be no fiscal impact until the Legislature appropriates funding for provider training to be a direct cost.

*Fill in the form below if the impact does not fit the criteria above:*

Fiscal impact of \$100,000 annually or \$500,000 over 5 years.

**Assumptions:**

**Describe how estimates were derived:**

**Estimated Impact to the State by Fiscal Year**

	<u>Year 1 (SFY16)</u>	<u>Year 2 (SFY17)</u>
<b>Revenue by each source:</b>		
General fund	0	0
Federal funds	0	0
Other (specify):		
<b>TOTAL REVENUE</b>	<b>0</b>	<b>0</b>
<b>Expenditures:</b>		
General fund	0	0
Federal funds	0	0
Other (specify):		
<b>TOTAL EXPENDITURES</b>	<b>0</b>	<b>0</b>
<b>NET IMPACT (Revenue – Expenditures)</b>	<b>\$0</b>	<b>\$0</b>

This rule is required by state law or federal mandate.

*Please identify the state or federal law:*

2013 Iowa Acts Ch. 140 (SF 452) was signed by the Governor on June 20, 2013:

“The department of human services shall adopt rules pursuant to chapter 17A to provide that reasonable costs of staff training incurred by providers of home and community based services under the medical assistance program are reimbursable as direct costs. Such reimbursement shall include reimbursement of the reasonable costs associated with the learning management system utilized under the college of direct support training program.”

Funding has been provided for the rule change.

*Please identify the amount provided and the funding source:*

Funding has not been provided for the rule.

*Please explain how the agency will pay for the rule change:*

As the proposed rule is written, there will be no fiscal impact until the Legislature appropriates funding for provider training to be a direct cost.

***Fiscal impact to persons affected by the rule:***

To the extent funding is appropriated, HCBS providers may receive increased reimbursement, as discussed above.

***Fiscal impact to counties or other local governments (required by Iowa Code 25B.6):***

Counties and local governments could be impacted if they are also HCBS Waiver providers affected by this change.

Agency representative preparing estimate: Joe Havig

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