

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services hereby gives Notice of Intended Action to amend Chapter 36, “Facility Assessments,” and Chapter 82, “Intermediate Care Facilities for Persons with an Intellectual Disability,” Iowa Administrative Code.

These amendments change the timing and calculation of an intermediate care facilities for persons with an intellectual disability (ICF/ID) assessment. The change is to collect quarterly from the facilities based on paid claims, rather than withhold from claims monthly based on the prior period’s annual revenue.

In addition to the timing and calculation of the fee, penalty provisions for late payments are included. The penalties include a 1.5 percent fee for late submissions and include suspension of payments after three months of delinquency.

Provisions regarding Medicaid reimbursement to ICFs/ID for assessment fees paid are amended to reflect current practice, modified according to the change in the timing and calculation of the assessment. Fees assessed are not currently treated as an allowable cost, which would be subject to cost-based limits. Rather, ICF/ID reimbursement includes an add-on based on the assessments as currently calculated. The amendments provide for an add-on to the per diem reimbursement rate based on the annual assessments paid by a facility, divided by total annual patient days. Obsolete provisions regarding payments to state-operated facilities during the transition to the ICF/ID assessments are rescinded.

Any interested person may make written comments on the proposed amendments on or before November 1, 2016. Comments should be directed to Harry Rossander, Bureau

of Policy Coordination, Department of Human Services, Hoover State Office Building, Fifth Floor, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by e-mail to policyanalysis@dhs.state.ia.us.

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

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

These amendments are intended to implement Iowa Code section 249A.4 and Iowa Code section 249A.21 as amended by 2016 Iowa Acts, House File 2460, section 52.

The following amendments are proposed.

ITEM 1. Amend rule 441—36.1(249A) as follows:

441—36.1(249A) Assessment of fee. Intermediate care facilities for persons with an intellectual disability (ICFs/ID) licensed in Iowa under 481—Chapter 64 , including facilities not certified to participate in the Medicaid program, shall pay a ~~monthly~~ quarterly fee to the department. Effective ~~January~~ July 1, 2008 2016, the fee shall equal 5.5 percent of ~~the total revenue of the facility~~ actual paid claims, from all sources, for the facility's preceding ~~fiscal year divided by the number of months of facility operation during the~~ preceding fiscal year quarter.

ITEM 2. Amend rule 441—36.2(249A) as follows:

441—36.2(249A) Determination and payment of fee ~~for facilities certified to participate in the Medicaid program.~~ ~~For facilities certified to participate in the Medicaid program,~~ For all ICFs/ID licensed in Iowa under 481—Chapter 64, including facilities not certified to participate in the Medicaid program, the fee shall be determined

and paid as follows:

~~36.2(1) The assessment for each facility fiscal year shall be based on the financial and statistical report for the facility's preceding fiscal year submitted pursuant to rule 441—82.5(249A), as adjusted pursuant to 441—subrules 82.5(10) and 82.17(1). Each facility shall pay the assessment to the department on a quarterly basis. The facility shall:~~

~~a. Use Form 470-5422, Intermediate Care Facilities for Individuals with an Intellectual Disability Assessment Calculation Worksheet, to calculate the quarterly fee due.~~

~~b. Submit Form 470-5422 and the quarterly fee no later than 30 days following the end of each calendar quarter.~~

~~36.2(2) The department shall notify each facility of the amount of the fee assessed for each fiscal year following submission of the financial and statistical report for the facility's preceding fiscal year. The fee is subject to adjustment based on adjustments to the financial and statistical report. The facility shall calculate the amount of the quarterly fee due by multiplying 5.5 percent by the facility's total ICF/ID payments for services received from all sources during the preceding quarter, including but not limited to:~~

~~a. Medicaid managed care payments.~~

~~b. Client participation payments.~~

~~c. Medicaid fee-for-service payments.~~

~~d. Private pay/insurance payments.~~

~~e. Ancillary service payments.~~

~~36.2(3) ICFs/ID shall pay the monthly amount due to the department. If the department determines that an ICF/ID has underpaid or overpaid the fee, the department~~

shall notify the ICF/ID of the amount of the unpaid fee or refund due. Such amount shall be due or refunded within 30 days of the issuance of the notice.

36.2(4) ~~Rescinded IAB 6/4/08, effective 5/15/08.~~ An ICF/ID that fails to pay the fee within the time frame specified in subrule 36.2(3) shall pay a penalty in the amount of 1.5 percent of the unpaid fee due for each month or portion of a month that the unpaid fee is overdue.

a. If the ICF/ID substantiates good cause beyond the facility's control for failure to make timely payment of the fee, the department shall waive the penalty or a portion of the penalty. For purposes of this subrule, "good cause" shall have the same meaning as "good cause" for setting aside a default judgment under Iowa Rule of Civil Procedure 1.977.

b. Requests for a good-cause waiver must be submitted to the Iowa Medicaid enterprise, provider cost audit and rate setting unit, within 30 days of notice to the facility that the penalty is due.

36.2(5) If a fee has not been received by the department by the last day of the third month after the fee is due, the department shall suspend payment due the ICF/ID under the medical assistance program, including payments made on behalf of the medical assistance program by a contracted managed care organization.

ITEM 3. Rescind and reserve rule **441—36.3(249A)**.

ITEM 4. Amend subrule 82.5(13) as follows:

82.5(13) *Assessed fee.* The fee assessed pursuant to 441—Chapter 36 shall not be an allowable cost for cost reporting and audit purposes. In lieu of treating the fee as an allowable cost, a per diem assessment amount is added to the reimbursement rate

calculated under subrule 82.5(14), not subject to the maximum allowable base cost or maximum rate set at the eightieth percentile. The per diem assessment amount will be calculated by dividing the annual assessment paid by the reported total patient days.

~~*a.*— For the purpose of implementing the assessment for facilities operated by the state, Medicaid reimbursement rates shall be recalculated effective October 1, 2003, as provided in paragraph “*b.*”~~

~~*b.*— For purposes of determining rates paid for services rendered after October 1, 2003, each state-operated facility’s annual costs for periods before implementation of the assessment shall be increased by an amount equal to 6 percent of the facility’s annual revenue for the preceding fiscal year.~~



Iowa Department of Human Services
Information on Proposed Rules

Name of Program Specialist Sally Oudekerk	Telephone Number 515-974-4643	Email Address soudeke@dhs.state.ia.us
--	----------------------------------	--

1. Give a brief summary of the rule changes:

The rule changes the timing and calculation of ICF/ID assessment. The change is to collect quarterly from the facilities based on paid claims, rather than withhold from claims monthly based on prior period annual revenue.

In addition, to the timing and calculation of the fee, penalty provisions for late payments are included. The penalties include a 1.5% fee for late submissions, and suspension of payments after 3 months of delinquency.

Provisions regarding Medicaid reimbursement to ICF/IDs for assessment fees paid are amended to reflect current practice, modified according to the change in the timing and calculation of the assessment. Fees assessed are not currently treated as an allowable cost, which would be subject to cost-based limits. Rather, ICF/ID reimbursement includes an add-on based on the assessments as currently calculated. The amendments provide for an add-on to the per diem reimbursement rate based on the annual assessments paid by a facility, divided by total, annual patient days. Obsolete provisions regarding payments to state-operated facilities during the transition to the ICF/ID assessments are deleted.

2. What is the legal basis for the change? (Cite the authorizing state and federal statutes and federal regulations):

2016 Iowa House File 2460, sec. 52, amending Iowa Code sec. 249A.21

3. What is the reason for the Department requesting these changes?

The changes are required by state law.

4. What will be the effect of this rule making (who, what, when, how)?

The only change over the course of a year is timing of collections. There should not be an effect on either ICF/ID providers or the Department.

5. Is the change mandated by State or Federal Law?

The changes are required by state law.

6. Will anyone be affected by this rule change? If yes, who will be affected and will it be to the person's (organization's) benefit or detriment?

ICF/ID providers will benefit from this rule change as it will alleviate issues with cash flow due to the transition to Medicaid managed care.

7. What are the potential benefits of this rule?

ICF/ID providers will benefit from this rule change as it will alleviate issues with cash flow due to the transition to Medicaid managed care.

8. What are the potential costs, to the regulated community or the state of Iowa as a whole, of this rule?

This rule should not create any costs to either the state of Iowa or provider community.

9. Do any other agencies regulate in this area? If so, what agencies and what Administrative Code sections apply?

No

10. What alternatives to direct regulation in this area are available to the agency? Why were other alternatives not used?

There were no alternatives available.

11. Does this rule contain a waiver provision? If not, why?

No because this rule is required by state legislation and is a benefit to the affected ICF/ID providers.

12. What are the likely areas of public comment?

Providers will comment on the change in the assessment collection process.

13. 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)

These rules do not have an impact on private-sector job and employment opportunities.



Administrative Rule Fiscal Impact Statement

Date: 8-8-16

Agency: Human Services

IAC citation: 441 IAC

Agency contact: Sally Oudekerk

Summary of the rule: The rule changes the timing and calculation of the ICF/ID assessment. The change is to collect quarterly from the facilities based on paid claims, rather than withhold from claims monthly based on prior period annual revenue.

In addition, to the timing and calculation of the fee, penalty provisions for late payments are included. The penalties include a 1.5% fee for late submissions, and suspension of payments after 3 months of delinquency.

Provisions regarding Medicaid reimbursement to ICF/IDs for assessment fees paid are amended to reflect current practice, modified according to the change in the timing and calculation of the assessment. Fees assessed are not currently treated as an allowable cost, which would be subject to cost-based limits. Rather, ICF/ID reimbursement includes an add-on based on the assessments as currently calculated. The amendments provide for an add-on to the per diem reimbursement rate based on the annual assessments paid by a facility, divided by total, annual patient days. Obsolete provisions regarding payments to state-operated facilities during the transition to the ICF/ID assessments are deleted.

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 amount of the assessment is changing from 5.5% of prior period annual revenue to 5.5% of paid claims from the preceding quarter. Paid claims will include claims for services rendered that have been paid by any source, not just Medicaid. While this change in methodology will result in short-term timing differences, over the long run, actual paid claims should very nearly equal annual revenue. Therefore, any impact from this change is expected to be minimal.

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 (SFY17)</u>	<u>Year 2 (SFY18)</u>
Revenue by each source:		
General fund	_____	_____
Federal funds	_____	_____
Other (specify):	_____	_____
TOTAL REVENUE	_____	_____
Expenditures:		
General fund	_____	_____
Federal funds	_____	_____
Other (specify):	_____	_____
TOTAL EXPENDITURES	_____	_____
NET IMPACT	_____	_____

This rule is required by state law or federal mandate.

Please identify the state or federal law:

2016 Iowa House File 2460, sec. 52, amending Iowa Code sec. 249A.21

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:

No additional funding is required. Any changes in revenue are expected to be minimal and will be absorbed by the existing appropriation.

Fiscal impact to persons affected by the rule:

ICF/ID providers will benefit from this rule change as it will alleviate issues with cash flow.

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

None anticipated.

Agency representative preparing estimate: Jason Buls

Telephone number: 515-281-5764