

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed Emergency After Notice

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services amends Chapter 24, “Accreditation of Providers of Services to Persons with Mental Illness, Intellectual Disabilities, or Developmental Disabilities,” Chapter 25, “Disability Services Management,” Chapter 78, “Amount, Duration and Scope of Medical and Remedial Services,” Chapter 79, “Other Policies Relating to Providers of Medical and Remedial Care,” Chapter 83, “Medicaid Waiver Services,” Chapter 88, “Managed Health Care Providers,” and Chapter 90, “Targeted Case Management,” Iowa Administrative Code.

Current administrative rules do not comply with the current versions of medically related resource manuals as specified by the Centers for Medicare and Medicaid Services, pursuant to the administrative simplification provisions of the Health Insurance Portability and Accountability Act of 1996 (HIPAA, Title II). Specifically, the administrative rules stipulating services covered under the Iowa Medicaid program currently refer to outdated versions of the following resource manuals: International Classification of Diseases (ICD-10), Diagnostic and Statistical Manual of Mental Disorders (DSM-5), Code on Dental Procedures and Nomenclature (CDT), and American Society of Addiction Medicine Patient Placement Criteria for the Treatment of Addictive, Substance-Related and Co-Occurring Conditions (ASAM-PPC). In order to keep these references current without having to amend them in the future, the Department proposes to amend the administrative rules to refer to the “current version” of the resource.

In addition, the proposed amendments:

- Update the definitions of “mental retardation” and “serious emotional

disturbance” and the term “developmental disorders,” pursuant to the current version of the DSM.

- Eliminate the references to “V codes,” pursuant to the change of that designation in the current version of the ICD.
- Update ICD diagnoses listed in subrule 78.8(2) regarding coverage of chiropractic manipulative therapy (CMT), pursuant to the current version of the ICD.
- Update coverage of mental health and substance abuse services in rule 441—88.61(249A) and subrule 88.65(5), pursuant to the current version of the ICD.
- Change the diagnosis of “bulimia” to “bulimia nervosa,” pursuant to the current version of the DSM.
- Eliminate the diagnosis of “bulimarexia,” pursuant to the current version of the DSM.
- Rescind the definition of “International classifications of diseases—fourth edition, ninth revision (ICD-9)” in paragraph 79.1(16)“a” because the term is not used in the current version of subrule 79.1(16) and, therefore, is being removed because it is obsolete.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 2062C** on July 22, 2015. The Department received comments from one respondent regarding these amendments. The respondent’s comments and the Department’s response are as follows:

The respondent’s comments were regarding Item 4 under this proposed rule, which generally makes various technical corrections to various current rules, including under Item 4. Item 4 amends **441—78.1(24)** related to “topical fluoride varnish”, by updating

technical references to the “Code on Dental Procedures and Nomenclature”. The previous and proposed version of 441--78.1(24) uses the term “physicians”, related to such practitioners providing these services. The respondent believes that the rule’s language limiting practitioners to “physicians” would exclude other appropriately licensed and competent health professionals from providing these services, within the scope of their professional licensure. In this regard, the respondent recommended revising the current proposed change to 78.1(24) to read: “...when rendered by physicians or auxiliary personnel acting within the scope of their practice, licensure, and other applicable state law...”

The Department’s response is as follows: It is important to note that the use of the term “physicians” in the context of both the current and proposed versions of 441—78.1(24) is related to the fact that this subrule is under the main rule 441—78.1(249A), related to “physicians services”. That fact notwithstanding, the Department understands the respondent’s concerns and agrees with the respondent’s reason for revision and provides a change to the language in the original Notice of Intended Action, as follows:

ITEM 4. Amend subrule 78.1(24) as follows:

78.1(24) Topical fluoride varnish. Payment shall be made for application of an FDA-approved topical fluoride varnish, as defined by the current version of the Current-Dental Terminology, Third Edition Code on Dental Procedures and Nomenclature (CDT-3); published by the American Dental Association, for the purpose of preventing the worsening of early childhood caries in children aged 0 to 36 months of age, when rendered by physicians or other appropriately licensed practitioners under the supervision of or in

collaboration with a physician and who are acting within the scope of their practice,
licensure, and other applicable state law, subject to the following provisions and
limitations:

Pursuant to Iowa Code section 17A.5(2)“b”(2), the Department finds that the
normal effective date of these amendments, 35 days after the publication, should be waived
and the amendments should be made effective October 1, 2015. The normal effective date
can be waived since these amendments will confer a benefit on the public. The rule
amendments confer a benefit on the public by ensuring that state regulations remain in
compliance with federal regulations and requirements in accordance with federal law.
These updates to references were mandated by the Centers for Medicare and Medicaid
Services.

The Council on Human Services adopted these amendments on September 9, 2015.

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.

These amendments will become effective October 1, 2015.

The following amendments are adopted.

ITEM 1. Amend rule **441—24.1(225C)**, definitions of “Mental retardation” and
“Serious emotional disturbance,” as follows:

“~~Mental retardation~~ Intellectual disability” means a diagnosis of ~~mental retardation~~
intellectual disability (intellectual developmental disorder), global developmental delay, or

unspecified intellectual disability (intellectual developmental disorder) under these rules which shall be made only when the onset of the person's condition was ~~before the age of 18 years~~ during the developmental period and shall be based on an assessment of the person's intellectual functioning and level of adaptive skills. A licensed psychologist or psychiatrist who is professionally trained to administer the tests required to assess intellectual functioning and to evaluate a person's adaptive skills shall make the diagnosis. A diagnosis of ~~mental retardation~~ intellectual disability shall be made in accordance with the criteria provided in the current version of the Diagnostic and Statistical Manual of Mental Disorders, ~~Fourth Edition~~, published by the American Psychiatric Association.

“Serious emotional disturbance” means a diagnosable mental, behavioral, or emotional disorder that (1) is of sufficient duration to meet diagnostic criteria for the disorder specified by the current version of the Diagnostic and Statistical Manual of Mental Disorders, ~~Fourth Edition~~ (DSM-IV-TR); published by the American Psychiatric Association; and (2) has resulted in a functional impairment that substantially interferes with or limits a consumer's role or functioning in family, school, or community activities.

“Serious emotional disturbance” shall not include ~~developmental~~ neurodevelopmental disorders, substance-related disorders, or conditions or problems classified in the current version of the DSM-IV-TR as “other conditions that may be a focus of clinical attention,” (~~V-codes~~), unless those conditions co-occur with another diagnosable serious emotional disturbance.

ITEM 2. Amend paragraph **25.41(2)“c”** as follows:

c. Demographic information including date of birth, sex, ethnicity, marital status, education, residential living arrangement, current employment status, monthly income,

income sources, type of insurance, insurance carrier, veterans' status, guardianship status, legal status in the system, source of referral, diagnosis in the current version of the DSM IV diagnosis, diagnosis in the current version of the ICD-9 diagnosis, disability group (i.e., ~~mental retardation~~ intellectual disability, developmental disability, chronic mental illness, mental illness), central point of coordination (county number preceded by A 1), and central point of coordination (CPC) name.

ITEM 3. Amend paragraph 25.41(3)“b,” table entries for “DSMIV” and “ICD9,” as follows:

Field Name	Data Type	Field Size	Format	Description
DSMIV <u>DSM</u> (<u>current version</u>)	Text	50		DSM <u>IV (current version)</u> diagnosis code of client
ICD9 <u>ICD</u> (<u>current version</u>)	Text	50		ICD-9 (<u>current version</u>) diagnosis code (optional for county use; not tied to CoMIS entry)

ITEM 4. Amend subrule 78.1(24) as follows:

78.1(24) Topical fluoride varnish. Payment shall be made for application of an FDA-approved topical fluoride varnish, as defined by the current version of the Current-Dental Terminology, Third Edition Code on Dental Procedures and Nomenclature (CDT-3), published by the American Dental Association, for the purpose of preventing the worsening of early childhood caries in children aged 0 to 36 months of age, when rendered by physicians or other appropriately licensed practitioners under the supervision of or in collaboration with a physician and who are acting within the scope of their practice,

licensure, and other applicable state law, subject to the following provisions and limitations:

- a. to d. No change.

ITEM 5. Rescind paragraph 78.8(2)“a” and adopt the following new paragraph in lieu thereof:

a. The subluxation must have resulted in a neuromusculoskeletal condition set forth in the table below for which CMT is appropriate treatment. The symptoms must be directly related to the subluxation that has been diagnosed. The mere statement or diagnosis of “pain” is not sufficient to support the medical necessity of CMT. CMT must have a direct therapeutic relationship to the patient’s condition. No other diagnostic or therapeutic service furnished by a chiropractor is covered under the Medicaid program.

ICD	CATEGORY I	ICD	CATEGORY II	ICD	CATEGORY III
G44.1	Vascular headache NEC<fo:wrapper font-size=".69em" baseline-shift=".33em" >*</fo:wrapper>	G54.0- G54.4	Nerve root and plexus disorders, brachial plexus disorders, lumbosacral plexus disorders, cervical root disorders NEC, thoracic root disorders NEC, lumbosacral root disorders NEC	M48.30- M48.33	Traumatic spondylopathy, site unspecified, occipito-atlanto-axial region, cervical region, cervicothoracic region
G44.209	Tension headache, unspecified, not intractable	G54.8	Other nerve root and plexus disorders	M48.35- M48.38	Traumatic spondylopathy, thoracolumbar region, lumbar region, lumbosacral region, sacral and sacrococcygeal region
M47.21- M47.28	Other spondylosis with radiculopathy, occipito-atlanto-axial region, cervical region, cervicothoracic region, thoracic region, thoracolumbar region, lumbar region, lumbosacral region, sacral and sacrococcygeal region	G54.9	Nerve root and plexus disorder, unspecified	M50.20- M50.23	Other cervical disc displacement
M47.81	Spondylosis without	G55	Nerve root and plexus	M50.30-	Other cervical disc

ICD	CATEGORY I	ICD	CATEGORY II	ICD	CATEGORY III
1- M47.81 8	myelopathy or radiculopathy, occipito-atlanto-axial region, cervical region, cervicothoracic region, thoracic region, thoracolumbar region, lumbar region, lumbosacral region, sacral and sacrococcygeal region		compressions in diseases classified elsewhere	M50.33	degeneration
M47.89 1- M47.89 8	Other spondylosis, occipito-atlanto-axial region, cervical region, cervicothoracic region, thoracic region, thoracolumbar region, lumbar region, lumbosacral region, sacral and sacrococcygeal region	M43.00- M43.28	Spondylolysis; spondylolisthesis; fusion of spine	M51.24- M51.27	Other thoracic, thoracolumbar and lumbosacral intervertebral disc displacement
M54.2	Cervicalgia	M43.6	Torticollis	M51.34- M51.37	Other thoracic, thoracolumbar and lumbosacral intervertebral disc degeneration
M54.5	Low back pain	M46.00- M46.09	Spinal enthesopathy	M54.30- M54.32	Sciatica
M54.6	Pain in the thoracic spine	M46.41- M46.47	Discitis, unspecified, occipito-atlanto-axial region, cervical region, cervicothoracic region, thoracic region, thoracolumbar region, lumbar region, lumbosacral region	M54.40- M54.42	Lumbago with sciatica
M54.81	Occipital neuralgia	M48.00- M48.08	Spinal stenosis	M96.1	Postlaminectomy syndrome, NEC
M54.89	Other dorsalgia	M48.34	Traumatic spondylopathy, thoracic region		
M54.9	Dorsalgia, unspecified	M50.10- M50.13	Cervical disc disorder with radiculopathy		
R51	Headache	M50.80- M50.83	Other cervical disc disorders		
		M50.90- M50.93	Cervical disc disorder, unspecified		
		M51.14- M51.17	Intervertebral disc disorders with radiculopathy, thoracic region, thoracolumbar region, lumbar region, lumbosacral region		
		M51.84-	Other thoracic,		

ICD	CATEGORY I	ICD	CATEGORY II	ICD	CATEGORY III
		M51.87	thoracolumbar and lumbosacral intervertebral disc disorders		
		M53.0	Cervicocranial syndrome		
		M53.1	Cervicobrachial syndrome		
		M53.2X 1- M53.2X 9	Spinal instabilities		
		M53.3	Sacrococcygeal disorders NEC		
		M53.80	Other specified dorsopathies, site unspecified		
		M53.84- M53.88	Other specified dorsopathies, thoracic region, thoracolumbar region, lumbar region, lumbosacral region, sacral and sacrococcygeal region		
		M53.9	Dorsopathy, unspecified		
		M54.10- M54.18	Radiculopathy		
		M60.80	Other myositis, unspecified site		
		M60.811 , M60.812	Other myositis, shoulder, right, left		
		M60.819	Other myositis, unspecified shoulder		
		M60.821 , M60.822	Other myositis, upper arm, right, left		
		M60.829	Other myositis, unspecified upper arm		
		M60.831 , M60.832	Other myositis, forearm, right, left		
		M60.839	Other myositis, unspecified forearm		
		M60.841 , M60.842	Other myositis, hand, right, left		
		M60.849	Other myositis,		

ICD	CATEGORY I	ICD	CATEGORY II	ICD	CATEGORY III
			unspecified hand		
		M60.851 , M60.852	Other myositis, thigh, right, left		
		M60.859	Other myositis, unspecified thigh		
		M60.861 , M60.862	Other myositis, lower leg, right, left		
		M60.869	Other myositis, unspecified lower leg		
		M60.871 , M60.872	Other myositis, ankle and foot, right, left		
		M60.879	Other myositis, unspecified ankle and foot		
		M60.88, M60.89	Other myositis, other site, multiple sites		
		M60.9	Myositis, unspecified		
		M62.830	Muscle spasm of back		
		M72.9	Fibroblastic disorder, unspecified		
		M79.1	Myalgia		
		M79.2	Neuralgia and neuritis, unspecified		
		M79.7	Fibromyalgia		
		M99.20- M99.23	Subluxation stenosis of neural canal, head region, cervical region, thoracic region, lumbar region		
		M99.30- M99.33	Osseous stenosis of neural canal, head region, cervical region, thoracic region, lumbar region		
		M99.40- M99.43	Connective tissue stenosis of neural canal, head region, cervical region, thoracic region, lumbar region		
		M99.50- M99.53	Intervertebral disc stenosis of neural canal, head region, cervical region, thoracic region, lumbar region		
		M99.60-	Osseous and		

ICD	CATEGORY I	ICD	CATEGORY II	ICD	CATEGORY III
		M99.63	subluxation stenosis of intervertebral foramina, head region, cervical region, thoracic region, lumbar region		
		M99.70- M99.73	Connective tissue and disc stenosis of intervertebral foramina, head region, cervical region, thoracic region, lumbar region		
		Q76.2	Congenital spondylolisthesis		
		S13.4X XA, S13.4X XD	Sprain of ligaments of cervical spine, initial encounter, subsequent encounter		
		S13.8X XA, S13.8X XD	Sprain of joints and ligaments of other parts of neck, initial encounter, subsequent encounter		
		S16.1X XA, S16.1X XD	Strain of muscle, fascia and tendon at neck level, initial encounter, subsequent encounter		
		S23.3X XA, S23.3X XD	Sprain of ligaments of thoracic spine, initial encounter, subsequent encounter		
		S23.8X XA, S23.8X XD	Sprain of other specified parts of thorax, initial encounter, subsequent encounter		
		S33.5X XA, S33.5X XD	Sprain of ligaments of lumbar spine, initial encounter, subsequent encounter		
		S33.6X XA, S33.6X XD	Sprain of sacroiliac joint, initial encounter, subsequent encounter		

* NEC means not elsewhere classified.

ITEM 6. Amend subrule 78.12(1), definition of “Mental disorder,” as follows:

“Mental disorder” means a disorder, dysfunction, or dysphoria diagnosed pursuant to the current version of the Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition, published by the American Psychiatric Association, excluding intellectual

disabilities, personality disorders, medication-induced movement disorders and other adverse effects of medication, and other conditions that may be a focus of clinical attention.

ITEM 7. Amend subparagraph **78.31(4)“b”(1)** as follows:

(1) General characteristics. Eating disorders are characterized by gross disturbances in eating behavior. Eating disorders include anorexia nervosa, or bulimia,~~or bulimarexia nervosa.~~ Compulsive overeaters are not ~~acceptable~~ approved for this program.

ITEM 8. Amend subparagraph **78.31(4)“b”(4)**, introductory paragraph, as follows:

(4) Admission criteria. In order to be accepted for treatment, the patient shall meet the diagnostic criteria for anorexia nervosa or bulimia nervosa as established by the current version of the DSM III-R (Diagnostic and Statistical Manual of Mental Disorders ; Third Edition, Revised,) published by the American Psychiatric Association.

ITEM 9. Amend paragraph **78.45(1)“c”** as follows:

c. The member has a validated principal mental health diagnosis consistent with a severe and persistent mental illness. For this purpose, a mental health diagnosis means a disorder, dysfunction, or dysphoria diagnosed pursuant to the current version of the Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition, published by the American Psychiatric Association, excluding neurodevelopmental disorders, substance-related disorders, personality disorders, medication-induced movement disorders and other adverse effects of medication, and other conditions that may be a focus of clinical attention. Members with a primary diagnosis of substance-related disorder, developmental disability, or organic disorder are not eligible for ACT services.

ITEM 10. Rescind the definition of “International classifications of

diseases—fourth edition, ninth revision (ICD-9)” in paragraph 79.1(16)“a.”

ITEM 11. Amend subrule 79.1(20) as follows:

79.1(20) Dentists. The dental fee schedule is based on the definitions of dental and surgical procedures given in the ~~Current Dental Terminology, Third Edition~~ current version of the Code on Dental Procedures and Nomenclature (CDT-3) published by the American Dental Association.

ITEM 12. Amend rule 441—83.121(249A), definition of “Serious emotional disturbance,” as follows:

“Serious emotional disturbance” means a diagnosable mental, behavioral, or emotional disorder that (1) is of sufficient duration to meet diagnostic criteria for the disorder specified by the current version of the Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition (DSM-IV-TR), published by the American Psychiatric Association; and (2) has resulted in a functional impairment that substantially interferes with or limits a consumer’s role or functioning in family, school, or community activities. “Serious emotional disturbance” shall not include ~~developmental~~ neurodevelopmental disorders, substance-related disorders, or conditions or problems classified in the current version of the DSM-IV-TR as “other conditions that may be a focus of clinical attention,” ~~(V-codes)~~, unless these conditions co-occur with another diagnosable serious emotional disturbance.

ITEM 13. Amend rule 441—88.61(249A), definitions of “ASAM-PPC-2R,” “Mental health services,” “Service necessity” and “Substance abuse services,” as follows:

“ASAM-PPC-2R” shall mean the current version of the American Society of Addiction Medicine Patient Placement Criteria for the Treatment of Addictive,

Substance-Related Disorders, Second Edition Revised, and Co-Occurring Conditions published by the American Society of Addiction Medicine in 2001.

“Mental health services” shall mean those clinical, rehabilitative, or supportive services provided by an individual, agency, or other entity that is licensed, accredited, certified, or otherwise approved as required by law to treat any mental disorder listed in the current version of the International Classification of Diseases—Ninth Edition (ICD-9) published by the World Health Organization. At a minimum, covered disorders include the following ranges of the ICD-9: 290-302.9; 306-309.9; and 311-314.9 F01, F03 to F06 (mental disorders due to known physiological conditions: vascular dementia, amnesic disorder due to physiological condition, delirium due to physiological condition, other mental disorders due to physiological conditions); F20 to F25, F28, F29 (schizophrenia, schizotypal, delusional and other non-mood psychotic disorders); F30 to F34, F39 (mood (affective) disorders); F40 to F45, F48 (anxiety, dissociative, stress-related, somatoform and other nonpsychotic mental disorders); F50 to F53, F59 (behavioral syndromes associated with physiological disturbances and physical factors: eating disorders, sleep disorders not due to substance/known physiological condition, sexual dysfunction not due to substance/known physiological condition, puerperal psychosis); F60, F63 to F66, F68, F69 (disorders of adult personality and behavior); F84 (except F84.2) (pervasive developmental disorders); and F90 to F95, F98, F99 (behavioral and emotional disorders with onset usually occurring in childhood and adolescence). Additional code ranges may be included in the contract. Mental health services shall include, but not be limited to, those services listed at subrule 88.65(3).

“Service necessity” shall mean that substance abuse services for the treatment of

conditions related to substance abuse meet the following requirements according to the ~~criteria of the~~ current version of the American Society of Addiction Medicine Patient Placement Criteria for the Treatment of Addictive, Substance-Related, and Co-Occurring Conditions (ASAM-PPC-2R) published by the American Society of Addiction Medicine.

The services shall be:

1. to 5. No change.

“Substance abuse services” shall mean those clinical, rehabilitative, supportive and other services provided in response to and to alleviate the symptoms of any substance abuse disorder listed in the current version of the International Classification of Diseases—Ninth Edition (ICD-9), published by the World Health Organization, disorders 303 through 305.9 F10 to F19, F55 (mental and behavioral disorders due to known psychoactive substance use), provided by an individual, agency, or other entity that is licensed, accredited, certified, or otherwise approved as required by law to treat any of these substance abuse disorders. Services include, but are not limited to, services listed at subrule 88.65(4).

ITEM 14. Amend subrule **88.65(4)** as follows:

88.65(4) Covered and required substance abuse services. The contractor shall ensure, arrange, monitor and reimburse the following services for the treatment of substance abuse:

- a. Outpatient services (all Level I 1 services according to the current version of the ASAM-PPC-2R).
- b. Intensive outpatient and partial hospitalization services (all Level H 2 services according to the current version of the ASAM-PPC-2R).

c. Residential or inpatient services (all Level ~~III~~ 3 services according to the current version of the ASAM-PPC-2R).

d. Medically managed intensive inpatient services (all Level ~~IV~~ 4 services according to the current version of the ASAM-PPC-2R).

e. to j. No change.

ITEM 15. Amend subrule **88.65(5)** as follows:

88.65(5) Covered diagnoses. Services for a covered diagnosis cannot be denied solely on the basis of an individual's also having a noncovered diagnosis. Mental health services, including inpatient care, cannot be denied solely on the basis of an individual's having no diagnosis pursuant to the current version of the Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition, published by the American Psychiatric Association. The contractor will be responsible for ensuring, arranging, monitoring, and reimbursing services necessary for the behavioral care and treatment of the covered diagnoses for Iowa Plan enrollees who are diagnosed with a covered diagnosis and a noncovered diagnosis.

The services defined at subrules 88.65(3) and 88.65(4) shall be provided to all Iowa Plan enrollees who meet the diagnostic criteria for the following disorders listed in the current version of the International Classification of Diseases—Ninth Edition (ICD-9) published by the World Health Organization:

~~1. a.~~ Mental health: ~~290-302.9; 306-309.9; 311-314.9.~~

(1) Mental disorders due to known physiological conditions (vascular dementia, amnesic disorder due to physiological condition, delirium due to physiological condition, other mental disorders due to physiological conditions): ICD codes F01 and F03

to F06.

(2) Schizophrenia, schizotypal, delusional and other non-mood psychotic disorders: ICD codes F20 to F25, F28 and F29.

(3) Mood (affective) disorders: ICD codes F30 to F34 and F39.

(4) Anxiety, dissociative, stress-related, somatoform and other nonpsychotic mental disorders: ICD codes F40 to F45 and F48.

(5) Behavioral syndromes associated with physiological disturbances and physical factors (eating disorders, sleep disorders not due to substance/known physiological condition, sexual dysfunction not due to substance/known physiological condition, puerperal psychosis): ICD codes F50 to F53 and F59.

(6) Disorders of adult personality and behavior: ICD codes F60, F63 to F66, F68 and F69.

(7) Pervasive developmental disorders: ICD codes F84 (except F84.2).

(8) Behavioral and emotional disorders with onset usually occurring in childhood and adolescence: ICD codes F90 to F95, F98 and F99.

2. b. Substance abuse: 303-305.9. Mental and behavioral disorders due to known psychoactive substance use: ICD codes F10 to F19 and F55.

ITEM 16. Amend 441—Chapter 90, preamble, as follows:

PREAMBLE

These rules define and structure medical assistance targeted case management services provided in accordance with Iowa Code section 225C.20 for Medicaid members with ~~mental retardation~~ an intellectual disability, a chronic mental illness, or a developmental disability and members eligible for the home- and community-based

services (HCBS) children’s mental health waiver. Provider accreditation standards are set forth in 441—Chapter 24.

Case management is a method to manage multiple resources effectively for the benefit of Medicaid members. The service is designed to ensure the health, safety, and welfare of members by assisting them in gaining access to appropriate and necessary medical services and interrelated social, educational, housing, transportation, vocational, and other services.

ITEM 17. Amend rule **441—90.1(249A)**, definitions of “Mental retardation” and “Targeted population,” as follows:

~~“Mental retardation~~ Intellectual disability” means a diagnosis of ~~mental retardation~~ intellectual disability (intellectual developmental disorder), global developmental delay, or unspecified intellectual disability (intellectual developmental disorder) which:

1. Is made only when the onset of the person’s condition was ~~before the age of 18 years~~ during the developmental period;
2. Is based on an assessment of the person’s intellectual functioning and level of adaptive skills;
3. Is made by a licensed psychologist or psychiatrist who is professionally trained to administer the tests required to assess intellectual functioning and to evaluate a person’s adaptive skills; and
4. Is made in accordance with the criteria provided in the current version of the Diagnostic and Statistical Manual of Mental Disorders, ~~Fourth Edition~~, published by the American Psychiatric Association.

“Targeted population” means people who meet one of the following criteria:

1. An adult who is identified with a primary diagnosis of ~~mental-retardation~~ intellectual disability, chronic mental illness or developmental disability; or
2. A child who is eligible to receive HCBS ~~mental-retardation~~ intellectual disability waiver or HCBS children's mental health waiver services according to 441—Chapter 83.



Iowa Department of Human Services
Information on Proposed Rules

Name of Program Specialist Lisa Larson, ICD-10 Implementation Team	Telephone Number (515)256-4701	Email Address llarson2@dhs.state.ia.us
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1. Give a brief summary of the rule changes:

Rules specifying services covered under the Iowa Medicaid program currently refer to outdated versions of the following resource manuals: International Classification of Diseases (ICD), Diagnostic and Statistical Manual of Mental Disorders (DSM), Current Dental Terminology (CDT) and American Society of Addiction Medicine Patient Placement Criteria for the Treatment of Substance Related Disorders (ASAM-PPC). To keep these references current without future rule changes, the Department proposes to amend the rules to refer to the "current version" of the resource. The definitions "mental retardation", "developmental disorders" and "serious emotional disturbance" are updated pursuant to the DSM-5, and the reference to "V codes" is eliminated pursuant to the elimination of that designation in ICD-10. ICD diagnoses listed in the rules regarding coverage of chiropractic manipulative therapy (CMT) (78.8(2)) and coverage of mental health and substance abuse services (88.61 and 88.65(5)) are updated pursuant to ICD-10. The diagnosis of "bulimia" is updated to "bulimia nervosa" and the diagnosis of "bulimarexia" is eliminated, pursuant to DSM-5. Rules regarding Medicaid reimbursement for outpatient hospital services at 79.1(16), include a definition of ICD at 79.1(16)(a). However, the defined term is not used in the current version of 79.1(16). Therefore the definition is eliminated as obsolete.

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

Iowa Code section 249A.4

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

Current rules are out of date and do not comply with the ICD-10 mandate.

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

Rules governing services provided under the Iowa Medicaid program will be based on current diagnoses and resources used by the medical community.

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

ICD-10 rules changes are mandated by Federal Law, effective October 1, 2015.

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?

Yes, the medical community will be required to utilize the most current diagnoses and resources available to submit or accept and process claims in compliance with the ICD-10 mandate.

7. What are the potential benefits of this rule?

Rule changes are required for ICD-10 mandate compliance.

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

No costs are anticipated. The benefit is that rules governing services provided under the Iowa Medicaid program will be based on current diagnoses and resources used by the medical industry.

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?

1. Continue as is. Rejected because the current rules are out of date and do not comply with the ICD-10 mandate.
2. Change resource version to specific version in use. Rejected because reference would become outdated with future changes to the resource.

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

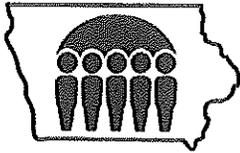
No, waivers are not provided because covered services should be described in the same, current terms for all program beneficiaries and because waivers can be requested pursuant to the Department's general rules on waivers or "exceptions to policy", at 1.8.

12. What are the likely areas of public comment?

None.

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)

No



Administrative Rule Fiscal Impact Statement

Date: June 23, 2015

Agency: Human Services

IAC citation: 441 IAC

Agency contact:

Summary of the rule:

Rules specifying services covered under the Iowa Medicaid program currently refer to outdated versions of the following resource manuals: International Classification of Diseases (ICD), Diagnostic and Statistical Manual of Mental Disorders (DSM), Current Dental Terminology (CDT) and American Society of Addiction Medicine Patient Placement Criteria for the Treatment of Substance Related Disorders (ASAM-PPC). To keep these references current without future rule changes, the Department proposes to amend the rules to refer to the "current version" of the resource. The definitions "mental retardation", "developmental disorders" and "serious emotional disturbance" are updated pursuant to the DSM-5, and the reference to "V codes" is eliminated pursuant to the elimination of that designation in ICD-10. ICD diagnoses listed in the rules regarding coverage of chiropractic manipulative therapy (CMT) (78.8(2)) and coverage of mental health and substance abuse services (88.61 and 88.65(5)) are updated pursuant to ICD-10. The diagnosis of "bulimia" is updated to "bulimia nervosa" and the diagnosis of "bulimarexia" is eliminated, pursuant to DSM-5. Rules regarding Medicaid reimbursement for outpatient hospital services at 79.1(16), include a definition of ICD at 79.1(16)(a). However, the defined term is not used in the current version of 79.1(16). Therefore the definition is eliminated as obsolete.

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:

All of the proposed rules changes are technical in nature to ensure all resource manuals referenced in the IAC-441 are correct and the most current version available to the medical community. The updated manual versions introduce new conditions, categories and/or terminology and remove those that are no longer medically appropriate. These updates will not change current Medicaid reimbursement policies, services covered or populations served. Therefore, there is no fiscal impact.

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>
Revenue by each source:		
General fund	_____	_____
Federal funds	_____	_____
Other (specify):	_____	_____
TOTAL REVENUE	_____	_____
Expenditures:		
General fund	_____	_____
Federal funds	_____	_____
Other (specify):	_____	_____
TOTAL EXPENDITURES	_____	_____
NET IMPACT	<u>No Impact</u>	<u>No Impact</u>

This rule is required by state law or federal mandate.
Please identify the state or federal law:
 ICD-10 rules changes are mandated by Federal Law, effective October 1, 2015.

_____ 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:
 There is no fiscal impact.

Fiscal impact to persons affected by the rule:
 N/A.

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

Agency representative preparing estimate: Joe Havig
 Telephone number: 515-281-6022

Comments and Responses on ARC 2062C
Topical Fluoride Varnish
Received August 11, 2015

The following person/organization provided written comments, which are included in the summary below:

1. Laurie Clair, PA, Title: President, Iowa Physician Assistant Society (IPAS)

COMMENT:

The IPAS's issue is with Item 4 under this proposed rule, which generally makes various technical corrections to various current rules, including under Item 4. Item 4 amends 441—78.1(24) related to “topical fluoride varnish”, by updating technical references to the “Code on Dental Procedures and Nomenclature”. The previous and proposed version of 78.1(24) uses the term “physicians”, related to such practitioners providing these services. The IPAS believes that the rule’s language limiting practitioners to “physicians” would exclude other appropriately licensed and competent health professionals from providing these services, within the scope of their professional licensure. In this regard, the IPAS recommended revising the current proposed change to 78.1(24) to read: “...when rendered by physicians or auxiliary personnel acting within the scope of their practice, licensure, and other applicable state law...”

RESPONSE:

It is important to note that the use of the term “physicians” in the context of both the current and proposed versions of 441—78.1(24) is related to the fact that this subrule is under the main rule 441—78.1(249A), related to “physicians services”. That fact notwithstanding, the Department understands IPAS's concerns and agrees with its recommended revision and will revise the proposed rule, as follows:

ITEM 4. Amend subrule 78.1(24) as follows:

78.1(24) Topical fluoride varnish. Payment shall be made for application of an FDA-approved topical fluoride varnish, as defined by the current version of the Current Dental Terminology, Third Edition Code on Dental Procedures and Nomenclature (CDT-3), published by the American Dental Association, for the purpose of preventing the worsening of early childhood caries in children aged 0 to 36 months of age, when rendered by physicians or other appropriately licensed practitioners under the supervision of or in collaboration with a physician and who are acting within the scope of their practice, licensure, and other applicable state law, subject to the following provisions and limitations:

- a. to d. No change.



Iowa Physician Assistant Society

6919 Vista Drive
West Des Moines, IA 50266
ph: (515) 282-8192 fax: (515) 282-9117

August 11, 2015

Mr. Harry Rossander
Bureau of Policy Coordinator
Department of Human Services
Hoover State Office Building Fifth Floor
1305 E Walnut St
Des Moines, IA 50319-0114

RE: ARC 2062C (Topical Fluoride Varnish)

Dear Mr. Rossander,

- The Iowa Physician Assistant Society (IPAS) is the state professional association representing the more than 1,140 licensed physician assistants (PAs) across the state of Iowa. IPAS appreciates the opportunity to provide comments to the Department of Human Services regarding proposed regulation IAC 441-24.1; -25.41; -78.1, .8, .12, .31, .45; -79.1; -83.121; -88.61, .65; -90.1. We are concerned that particular language within this regulation may initiate a restrictive policy toward PAs that will hurt both providers and patients alike by limiting the ability of PAs who are fully qualified by education, training, and state licensure, from providing care to an important population.

Item 4, which amends subrule 78.1(24), modifies language regarding Topical Fluoride Varnish. The language now reads:

"Payment shall be made for application of an FDA-approved topical fluoride varnish, as defined by [A] the current version of <A> the [D] Current Dental Terminology, Third Edition <D> [A] Code on Dental Procedures and Nomenclature <A> (CDT [D] -3 <D]) [D] , <D] [A] published by the American Dental Association, <A> for the purpose of preventing the worsening of early childhood caries in children aged 0 to 36 months of age, when rendered by physicians acting within the scope of their practice, licensure, and other applicable state law, subject to the following provisions and limitations..."

The explicit utilization of the word "physicians" when attributing who may perform the service phrases the sentence in an overly-restrictive manner. Application of a topical fluoride varnish is an important preventive action that can help avoid medical conditions that result from tooth decay. As written, the rule would inefficiently require a physician to take the time to perform the process, instead of allowing a fully competent professional such as a PA to do so. PAs are an integral part of the healthcare system. Utilizing their broad medical training to help practices manage the increasing demand for health services makes sense.

Accordingly, IPAS recommends that the regulation's language be modified to allow PAs to render topical fluoride varnish as well. Utilizing language employed elsewhere in the rule (the term "auxiliary personnel"), we recommend the following modified language:

"...for the purpose of preventing the worsening of early childhood caries in children aged 0 to 36 months of age, when rendered by physicians or auxiliary personnel acting within the scope of their practice, licensure, and other applicable state law, subject to the following provisions and limitations..."

Mr. Harry Rossander
August 11, 2015
Page 2

Such language would be consistent with language on the Iowa Department of Public Health's own i-smile website (<http://www.ismiledentalhome.iowa.gov/Providers.aspx>) which includes the phrase "Training physicians, nurses, and physician assistants on how to complete a dental screening and how to apply fluoride varnish." Consequently, we are not asking to expand the scope of practice for PAs. Instead, we are advocating for a regulatory clarification that will help expand access to an important preventive service by allowing PAs to provide the care they are qualified and available to provide.

Thank you for your time and attention to this matter. If further information is needed, please feel free to contact us at the e-mail or numbers below.

Respectfully submitted,

A handwritten signature in black ink that reads "Laurie Clair PA-C". The signature is written in a cursive, flowing style.

Laurie Clair, PA
Iowa PA Society President
515-271-1060