

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Pursuant to the authority of Iowa Code section 234.6, the Department of Human Services amends Chapter 110, “Child Development Homes,” and Chapter 170, “Child Care Services,” Iowa Administrative Code.

The purpose of these amendments is to ensure that child development home providers remain in compliance with applicable rules and are providing safe care to the children in their environment. Specifically, these amendments identify the required time frame within which a registered child development home provider must inform the Department of changes that have occurred for the following: assistants or substitutes, household members, address changes, and criminal convictions. These amendments also propose new provisions regarding overpayments and recoupments. The new provisions set forth tiered consequences for repeated failure to comply with Child Care Assistance (CCA) rules and 50/50 recoupment for overpayments caused by the client and provider.

Notice of Intended Action was published in the Iowa Administrative Bulletin as ARC 1819C on January 7, 2015. The Department received no comments during the comment period. These amendments are identical to those published as Notice of Intended Action.

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 234.6.

These amendments will become effective July 1, 2015.

The following amendments are adopted.

ITEM 1. Adopt the following **new** subrule **110.7(7)**:

110.7(7) Required notifications to the department.

a. The provider shall, within ten days, notify the department of any of the following:

(1) Changes in assistants or substitutes;

(2) Changes in household membership;

(3) Address changes; and

(4) Criminal convictions.

b. No assistant, substitute, or coprovider shall be utilized in the care of children and no person shall be permitted to reside in the household until approved by the department.

c. If the provider does not notify the department of changes within ten days, the provider may be subject to revocation of registration or to recoupment of child care assistance provided, or both.

ITEM 2. Amend subrule **170.5(1)** as follows:

170.5(1) Provider agreement. The department may refuse to enter into or may revoke the Child Care Assistance Provider Agreement, Form 470-3871 or 470-3871(S), if any of the following occur:

a. The department finds a hazard to the safety and well-being of a child, and the provider cannot or refuses to correct the hazard.

b. The provider has submitted claims for payment for which the provider is not entitled.

c. The provider fails to cooperate with an investigation conducted by the department of inspections and appeals to determine whether information the provider supplied to the department regarding payment for child care services is complete and correct. Once the

agreement is revoked for failure to cooperate, the department shall not enter into a new agreement with the provider until cooperation occurs.

d. The provider does not meet one of the applicable requirements set forth in subrule 170.4(3).

e. The provider fails to comply with any of the terms and conditions of the Child Care Assistance Provider Agreement, Form 470-3871 or 470-3871(S).

f. The provider submits attendance documentation for payment and the provider knows or should have known that the documentation is false or inaccurate.

g. An overpayment of CCA funds with a balance of \$3,000 or more exists for a provider and that provider fails to enter into a repayment agreement with the department of inspections and appeals (DIA) or does not make payments according to the repayment agreement on file with DIA.

h. The provider is found to have more children in care at one time than allowed for the provider type as found at rule 441—110.4(237A) and 441—subrules 110.8(1), 110.9(1), 110.10(1) and 170.4(3).

ITEM 3. Adopt the following **new** subrule **170.5(5)**:

170.5(5) Provider agreement sanction. If a Child Care Assistance Provider Agreement, Form 470-3871 or 470-3871(S), is terminated for any of the reasons in subrule 170.5(1), the agreement shall remain terminated for the time periods set forth below:

a. The first time the agreement is terminated, the provider may reapply for another agreement at any time.

b. The second time the agreement is terminated, the provider may not reapply for another agreement for 12 months from the effective date of termination.

c. The third or subsequent time the agreement is terminated, the provider may not reapply for another agreement for 36 months from the effective date of termination.

d. The department shall not act on an application for a child care assistance provider agreement submitted by a provider during the sanction period.

ITEM 4. Adopt the following new paragraph **170.9(6)‘F’**:

f. Recoupment for overpayments caused by both the provider and client shall be collected from both the provider and client equally, 50 percent from the client and 50 percent from the provider.

Information on Proposed Rules

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1.	<p>Give a brief summary of the rule changes:</p> <p>Revise 441 IAC 170 to add new rules regarding overpayments and recoupments. New rules to address tiered consequences for repeated failure to comply with CCA rules and 50/50 recoupment for overpayments caused by the family and provider.</p> <p>Add 110.7(7) to identify the required timeliness in which a registered child development home provider must inform of changes that have occurred for the following: assistant or substitutes, household members, address changes, and criminal convictions.</p>
2.	<p>What is the reason for the Department to request these changes?</p> <p>CCA program integrity and fraud control. To assure that we are receiving timely notification and to assure that child development home providers remain in compliance and are providing safe care to the children in their environment</p>
3.	<p>What will be the effect of the rule adoption? (who, what, when, how)?</p> <p>Child care providers who fail to follow CCA billing and payment rules will have their CCA Provider Agreements terminated for 12 months (second offense) or 36 months (third and subsequent offense).</p> <p>Clarify that we will recoup an overpayment caused by both the family and provider by collecting 50% from each party.</p> <p>Chapter 110 rule will affect registered child development home providers as they will be required to provide timely notification of changes made where children are being provided care.</p>
4.	<p>Is the change mandated by State or Federal Law? (Cite the authorizing state and federal statutes and federal regulations)</p> <p>No.</p>
5.	<p>Will anyone be affected by this rule change? If yes who will be affected and will it be to the person(s) benefit or detriment?</p> <p>Providers will be subject to a period of CCA ineligibility if they fail to follow billing and payment rules. 50/50 rule will simply clarify in rules what the practice is today.</p> <p>Chapter 110 rule will affect registered child development home providers as they will be required to provide timely notification of changes made where children are being provided care.</p>
6.	<p>What are the potential benefits of this rule?</p> <p>Providers who repeatedly fail to comply with CCA billing and payment rules will have a set period of CCA ineligibility. This is not present in today's rules.</p> <p>By assuring timely notification of changes in child development homes, The Department can assure that required record checks are being completed appropriately. Additionally, The Department can assure that the condition of the child development home is in compliance with health and safety standards.</p>

<p>7. What are the potential costs, to the regulated community or the State of Iowa as a whole, of this rule?</p> <p>The CCA program may see some savings if providers can no longer bill for CCA families. However, these rules do not impact family eligibility, so savings would be limited to situations where providers are overbilling or fraudulently billing.</p> <p>There may be an increase in appeals if revocation or recoupment occurs as a result of untimely notifications. However, any costs related would be absorbed into current staffing.</p>
<p>8. Do any other agencies regulate in this area? If so, what agencies and what Administrative Code Sections apply?</p> <p>N/A</p>
<p>9. What alternatives to direct regulation in this area are available to the agency? Why were other alternatives not used?</p> <p>N/A</p>
<p>10. Does this rule contain a waiver provision? If not, why?</p> <p>This amendment does not provide a specific waiver authority because families may request a waiver of these provisions in a specified situation under the Department’s general rule on exceptions at 441 – 1.8(17A, 217)</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>No.</p>

ADMINISTRATIVE RULE FISCAL IMPACT STATEMENT

Date: 10/14/2014

Agency: Human Services

IAC citation: 441 IAC

Agency contact: Mark Adams

Summary of the rule:

Revises 441 IAC 170 to change rules relating to CCA billing and payment policy as well as rules relating to recoupment policy. New rules provide tiered consequences for repeated failure to comply with CCA rules and clarifies that recoupment for overpayments caused by both provider error and client error will be split 50/50. Also, revises 441 IAC 110 to change registration rules to define timely notification of changes in child development homes.

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: Fiscal impact to the state is anticipated to be minimal, but has not been estimated due to all of the unknowns regarding what providers may do and what families may do in reaction to termination of a provider agreement. No savings for the child care assistance (CCA) program is anticipated since families will remain eligible, but they would need to change providers to continue receiving CCA benefits. There could potentially be savings if a terminated provider had been over billing or fraudulently billing, but whether that is happening or to what extent is unknown. There could be an increase in appeals, but no additional cost is anticipated as that is expected to be handled by current staff.

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:

See brief explanation above.

Estimated Impact to the State by Fiscal Year

	Year 1 (FY)	Year 2 (FY)
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:

_____ 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:

Fiscal impact to persons affected by the rule:

- No fiscal impact to families.
- Providers will be subject to tiered consequences for failure to comply with CCA billing and payment rules.
- Providers will be subject to revocation of their registration certificate and /or termination of their CCA provider agreements for failure to timely report changes.

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

None anticipated.

Agency representative preparing estimate: Kathy Blume
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