

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

### **Adopted and Filed**

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

These amendments revise Chapter 170 to reflect new federal Child Care and Development Block Grant (CCDBG) rules regarding child care assistance eligibility. Specifically, these amendments remove provisions regarding nonregistered child care providers from Chapter 170 and incorporate the provisions in new Chapter 120, “Child Care Homes.” (See **ARC 2552C** herein.) In addition, these amendments revise in-home provider language to mirror the new CCDBG rules.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 2551C** on May 25, 2016. The Department received comments from 2 respondents during the public comment period. The Department also updated the language in the administrative rule due to a Departmental review which in turn led to the requirement to incorporate a technical change in the rulemaking document. The comments and Department responses are as follows:

**Comment 1.** A respondent requested that language be included that allows changes to the 5 year requirement for health and safety training if information changes. Modifications will allow DHS to require the training more often or to be renewed if significant changes to the content occur.

**DHS Response 1.** The Department agreed with the respondent and will add language to allow for health and safety training to be taken more frequently if content areas change significantly.

**Add subparagraph 170.4(3)“e”(1)**

**4. Minimum health and safety training may be required prior to the 5 year period if content has significant changes that warrant the training be renewed.**

**Comment 2.** A respondent requested that training in the use of an automated external defibrillator (AED) be included in the first aid and cardiopulmonary resuscitation (CPR) training requirements.

**DHS Response 2.** At this time, it is not known if AED is always provided during CPR courses. Additionally, if the Department required AED training, it would reasonable to assume that the Department would need to require an AED on the child care premises, which would have a fiscal impact to child care providers. The National Resource Center on Health and Safety of in Child Care and Early Education’s document, “Caring for Our Children” was also reviewed. The suggestion in that document is that child care facilities should consider having an AED on the premises for potential use with adults. It further indicates that the use of AED’s with children would be rare. For these reasons, the Department will not modify these amendments based on the respondent’s comments.

**Department Technical Change.** Rule language for first aid and CPR should be modified to include the American Safety and Health Institute as an approved training organization.

**170.4(3)“e”(1)(3)**

**(3)** Prior to provider agreement, first-aid and cardiopulmonary resuscitation (CPR) training meeting the following requirements:

- Training shall be provided by a nationally recognized training organization, such as the American Red Cross, American Heart Association, National Safety Council, or American

Safety and Health Institute or MEDIC First Aid Emergency Medical Planning (Medic First Aid) or by an equivalent trainer using curriculum approved by the department.

**170.4(3)“g”**

**g.** Iowa records checks for nonregistered child care homes and in-home care. If a nonregistered child care provider or a person who provides in-home care applies to receive public funds as reimbursement for providing child care for eligible clients, the provider shall complete and submit to the department Form 470-5143, Iowa Department of Human Services Record Check Authorization Form, ~~for the provider, for anyone having access to a child when the child is alone, and for anyone 14 years of age or older living in the home.~~ The department shall use this form to conduct Iowa criminal history record and child abuse record checks.

(1) The purpose of these checks is to determine whether the person has committed a transgression that prohibits or limits the person’s involvement with child care.

(2) The department may also conduct criminal and child abuse record checks in other states and may conduct dependent adult abuse, sex offender registry, and other public or civil offense record checks in Iowa or in other states

(3) Records checks shall be repeated ~~for each person subject to the check~~ every two years and when the department or provider becomes aware of any new transgressions ~~committed by that person.~~

The Council on Human Services adopted these amendments on July 13, 2016.

.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 October 1, 2016.

The following amendments are adopted.

ITEM 1. Amend subrule 170.4(3) as follows:

**170.4(3)** Method of provision. Parents shall be allowed to exercise their choice for in-home care, except when the parent meets the need for service under subparagraph 170.2(2) “b”(3), as long as the conditions in paragraph 170.4(7) “d” are met. When the child meets the need for service under 170.2(2) “b”(3), parents shall be allowed to exercise their choice of licensed, registered, or nonregistered child care provider except when the department service worker determines it is not in the best interest of the child. The provider must meet one of the applicable requirements set forth below.

~~The provider must meet one of the applicable requirements set forth below.~~

a. to d. No change.

e. In-home care. The adult caretaker selected by the parent to provide care in the child’s own home shall be sent ~~the pamphlet Comm. \_\_\_\_\_ 95 or Comm. 95(S), Minimum Health and Safety Requirements for Nonregistered Child Care Home Providers, and Form 470-2890 or 470-2890(S), Payment Application for Nonregistered Providers.~~ The provider shall complete and sign Form 470-2890 or 470-2890(S) and return the form to the department before payment may be made. An identifiable application is an application that contains a legible name and address and that has been signed. Signature on the form certifies the provider’s understanding of and compliance with the conditions and requirements for nonregistered in-home care providers that include:

(1) ~~Minimum health and safety requirements;~~ Professional development. The provider

shall complete:

1. Prior to provider agreement and every five years thereafter, minimum health and safety trainings, approved by the department, in the following content areas:

- Prevention and control of infectious disease, including immunizations.
- Prevention of sudden infant death syndrome and use of safe sleep practices.
- Administration of medication, consistent with standards for parental consent.
- Prevention of and response to emergencies due to food and allergic reactions.
- Building and physical-premises safety, including identification of and protection from hazards that can cause bodily injury, such as electrical hazards, bodies of water, and vehicular traffic.

- Prevention of shaken baby syndrome and abusive head trauma.
- Emergency preparedness and response planning for emergencies resulting from a natural disaster or a human-caused event.

● Handling and storage of hazardous materials and appropriate disposal of biocontaminants.

- Precautions in transporting children.

2. Prior to provider agreement, two hours of Iowa's training for mandatory reporting of child abuse.

3. Prior to provider agreement, first-aid and cardiopulmonary resuscitation (CPR) training meeting the following requirements:

- Training shall be provided by a nationally recognized training organization, such as the American Red Cross, American Heart Association, National Safety Council, or American Safety and Health Institute or MEDIC First Aid or by an equivalent trainer using curriculum approved by

the department.

- First-aid training shall include certification in infant and child first aid.

● The provider shall maintain a valid certificate indicating the date of first-aid training and the expiration date.

● The provider shall maintain a valid certificate indicating the date of CPR training and the expiration date.

4. Minimum health and safety training may be required prior to the 5 year period if content has significant changes that warrant the training be renewed.

(2) Limits on the number of children for whom care may be provided;\_

(3) Unlimited parental access to the child or children during hours when care is provided, unless prohibited by court order;\_and\_

(4) Conditions that warrant nonpayment.

f. Nonregistered family child care home. ~~The adult caretaker selected by the parent to provide care in a nonregistered family child care home shall be sent the pamphlet Comm. 95 or Comm. 95(S), Minimum Health and Safety Requirements for Nonregistered Child Care Home Providers, and Form 470-2890 or 470-2890(S), Payment Application for Nonregistered Providers. The provider shall complete and sign Form 470-2890 or 470-2890(S) and return the form to the department before payment may be made. An identifiable application is an application that contains a legible name and address and that has been signed. Signature on the form certifies the provider's understanding of and compliance with the conditions and requirements for nonregistered providers that include: A nonregistered child care home shall meet the requirements set forth in 441—Chapter 120.~~

(1) ~~Minimum health and safety requirements;~~

~~(2) Limits on the number of children for whom care may be provided;~~

~~(3) Unlimited parental access to the child or children during hours when care is provided, unless prohibited by court order; and~~

~~(4) Conditions that warrant nonpayment.~~

g. Iowa records checks for ~~nonregistered child care homes and~~ in-home care. If a ~~nonregistered child care provider or~~ a person who provides in-home care applies to receive public funds as reimbursement for providing child care for eligible clients, the provider shall complete and submit to the department Form 470-5143, Iowa Department of Human Services Record Check Authorization Form, ~~for the provider, for anyone having access to a child when the child is alone, and for anyone 14 years of age or older living in the home.~~ The department shall use this form to conduct Iowa criminal history record and child abuse record checks.

(1) The purpose of these checks is to determine whether the person has committed a transgression that prohibits or limits the person's involvement with child care.

(2) The department may also conduct criminal and child abuse record checks in other states and may conduct dependent adult abuse, sex offender registry, and other public or civil offense record checks in Iowa or in other states.

(3) Records checks shall be repeated ~~for each person subject to the check~~ every two years and when the department or provider becomes aware of any new transgressions ~~committed by that person.~~

h. National criminal history record checks for ~~nonregistered child care homes and~~ in-home care. If a ~~nonregistered child care provider or~~ a person who provides in-home care applies to receive public funds as reimbursement for providing child care for eligible clients, the provider shall complete Form DCI-45, Waiver Agreement, and Form FD-258, Federal Fingerprint Card, ~~for~~

~~the provider, for anyone 18 years of age or older who is living in the home, or for anyone having access to a child when the child is alone.~~

(1) The provider ~~or other person~~ subject to this check shall submit any other forms required by the department of public safety to authorize the release of records.

(2) The provider ~~or other person~~ subject to this check is responsible for any costs associated with obtaining the fingerprints and for submitting the prints to the department.

(3) to (5) No change.

i. No change.

ITEM 2. Amend subparagraph ~~170.4(7)~~**“a”**(1) as follows:

(1) “Child care center” shall mean those providers as defined in 170.4(3) “a” and “g.”  
“Registered child development home” shall mean those providers as defined in 170.4(3) “b.”  
“Nonregistered family child care home” shall mean those providers as defined in ~~170.4(3)~~**“f.”**

441—Chapter 120.

## Information on Proposed Rules

Name of Program Specialist	Telephone Number	E-mail Address
Mark Adams	515-281-5688	madams4@dhs.state.ia.us

**1. Give a brief summary of the rule changes:**

Revise 441 IAC 170 to reflect new federal Child Care and Development Block Grant (CCDBG) rules regarding child care assistance eligibility.

- Move nonregistered provider information from chapter 170 to new chapter 120.
- Revise in-home provider language to conform to new CCDBG rules.

**2. What is the reason for the Department to request these changes?**

CCDBG reauthorization.

**3. What will be the effect of the rule adoption? (who, what, when, how)?**

Rules regarding nonregistered providers will be more clearly defined.

**4. Is the change mandated by State or Federal Law? (Cite the authorizing state and federal statutes and federal regulations)**

Federal law – CCDBG reauthorization.

**5. 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?**

Providers. More requirements if the provider wishes to receive CCA funding.

**6. What are the potential benefits of this rule?**

Nonregistered providers will have more clearly defined health and safety requirements if they wish to receive CCA funding for eligible children. In-home providers will also be required to meet minimum requirements to be eligible for CCA payments.

**7. What are the potential costs, to the regulated community or the State of Iowa as a whole, of this rule?**

No cost impact to the State of Iowa. In-Home providers will need to obtain required training that may have a nominal cost. However, this cost is unknown.

**8. Do any other agencies regulate in this area? If so, what agencies and what Administrative Code Sections apply?**

No.

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

N/A

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

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)

**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)**

No.

# ADMINISTRATIVE RULE FISCAL IMPACT STATEMENT

Date: 2/1/2016

**Agency:** Human Services

**IAC citation:** 441 IAC

**Agency contact:** Mark Adams

**Summary of the rule:**

Revise 441 IAC 170 to eliminate non-registered child care home providers and revise in-home child care provider rules to conform to new federal CCDBG rules. A new chapter 120 was created for the non-registered child care home providers in a separate rule change.

*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:** This rule change adds training requirements related to the health and safety of children for in-home child care providers that participate in the state's child care assistance program. The requirements relate to the provider, therefore there is no fiscal impact to the state.

*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**

	Year 1 (FY )	Year 2 (FY )
<b>Revenue by each source:</b>		
General fund	_____	_____
Federal funds	_____	_____
Other (specify):	_____	_____
<b>TOTAL REVENUE</b>	_____	_____
<b>Expenditures:</b>		
General fund	_____	_____
Federal funds	_____	_____
Other (specify):	_____	_____
<b>TOTAL EXPENDITURES</b>	_____	_____
<b>NET IMPACT</b>	_____	_____

\_\_\_\_\_ 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:***

In-home child care providers that participate in the state's child care assistance program may incur additional costs to comply with required training which has not been required of them before. These providers are non-registered and not currently subject to regulatory requirements. The cost to the providers is unknown.

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

None anticipated.

Agency representative preparing estimate: Kathy Blume  
 Telephone number: (515) 281-4196