Department of HUMAN SERVICES

KELLY GARCIA, DIRECTOR | COUNCIL ON HUMAN SERVICES

AGENDA
Wednesday, April 08, 2020
Time: 10:00 a.m. – 10:30 a.m.
Dial: 1-866-685-1580 **Code: 515-281-7064#**

This meeting is accessible to persons with disabilities. (If you have special needs, please contact the Department of Human Services (515) 281-5455 two days prior to the meeting.) Note: Times listed on agenda for specific items are approximate and may vary depending on the length of discussion for preceding items. Please plan accordingly.

TELECONFERENCE MEETING AGENDA

10:00 a.m. Call to order

10:05 a.m. Rules **- Nancy Freudenberg**

R-1. Amendments to Chapter 170, "Child Care Services," Iowa Administrative Code. The current Child Care Assistance (CCA) Plus program is based on an income limit of 85 percent of the state median income and is limited to 12 months. The 12 month time limit is in conflict with federal regulations. The time limit will be eliminated and the income eligibility criteria will be reduced to 225 percent of the federal poverty level. The change recommended by the Governor to increase the age of the infant and toddler definition up to three years of age is also incorporated in this rule filing. The Department is continuing this rulemaking as we are under a federal corrective action plan under the Office of Child Care and the rules need to be in place effective July 1, 2020 so there is not a fiscal penalty.

The following amendments to the administrative rules are presented as Noticed rules.

N-1. The President signed the Bipartisan Budget Act of 2018, Public Law (P.L.) 115-123 into law on February 9, 2018. P.L. 115-123 includes the Families First Prevention Services Act (FFPSA) in Division E, Title VII. Section 50731 of the FFPSA directs the federal Department of Health and Human Services (HHS) to "identify reputable model licensing standards with respect to the licensing of foster family homes" (as defined in section 472(c)(1) of the Social Security Act). In response to this directive, the Children's Bureau of HHS issued the National Model Foster Family Home Licensing Standards.

The proposed amendments pertain to the licensing and regulation of foster family homes and are required to align with the federal model licensing standards. The Model Licensing Standards were to be in effect April 1, 2019. The Department requested additional time from the federal Department of Health and Human Services (HHS) to implement the standards through administrative rules. Additional time was approved by HHS. We are moving forward with this rulemaking as Iowa is out of compliance in several areas. Failure to meet the Model Family Home Foster Licensing Standards could result in the loss of Iowa's IV-E federal funding.

The following requirements have been added to the administrative rules:

- Applicants must be able to communicate with the licensing agency, health care and other service providers.

- At least one applicant in the home must have functional literacy; a level of reading, writing and calculation skills sufficient to function in the community in which an individual lives. An example for a foster parent would be to have the ability to read labels on medications in order to properly administer the medications to a child.
- Applicants and all household members must disclose any past or current mental health and/or substance abuse issues. The agency may require further documentation and/or evaluation to determine the suitability of the home.
- There must be at least one scheduled in-home, individual interview of each household member to observe family functioning and assess the family's capacity to meet the needs of a child in foster care. The contracted agency will determine whether to interview or just observe each household member based on his or her age and development.
- All household members who are caregivers must have up to date whooping cough vaccines unless contrary to the person's health.
- The contracted agency must obtain at least three references, including at least one from a relative and one from a non-relative.
- The applicant's home must meet the following standards concerning swimming pools, hot tubs and spas:
    - Swimming pools must have a barrier on all sides at least four feet high.
    - Swimming pools must have their methods of access through the barrier equipped with a safety device, such as a bolt lock.
    - Swimming pools must be equipped with a life saving device, such as a ring buoy.
    - If the swimming pool cannot be emptied after each use, the pool must have a working pump and filter system.
    - Hot tubs and spas must have safety covers that are locked when not in use.
- The applicants' home must meet the following standards concerning hazardous materials and first aid supplies:
    - Applicants must prevent the child's access, as appropriate for his or her age and other development, to all medications, poisonous materials, cleaning supplies, other hazardous materials and alcoholic beverages. All medications should be kept in a locked cabinet.
    - Applicants must maintain first aid supplies as recommended by the American Red Cross.
- Assurances from applicants must be agreed upon including:
    - They will not use any corporal or degrading punishment on any child in the home.
    - They will not use any illegal substances, abuse alcohol by consuming it in excess amounts, or abuse legal prescription and nonprescription drugs by consuming them in excess amounts or using them contrary as indicated.

Weapons and ammunition must be separately store, locked, unloaded and inaccessible to children. Previously the rules listed that weapons and firearms shall be maintained in a locked place such as a gun case. Federal requirements now specify the type of place and a listing of weapons and ammunition which must be identified in the rule.

10:15 a.m. Director’s Report – **Director Kelly Garcia**

10:30 a.m. Adjourn

HUMAN SERVICES DEPARTMENT [441]

Adopted and Filed

Rule making related to child care eligibility.

The Human Services Department hereby amends Chapter 170, "Child Care Services," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 234.6.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 234.6.

Purpose and Summary

The amendments update the eligibility guidelines for the Child Care Assistance (CCA) Plus program. The 12-month limit on eligibility is being removed, and the income guidelines are being revised. The definition of "infant and toddler" in the payment rate tables is being revised to include children up to three years old, and the definition of "preschool" is being revised accordingly. This is a time sensitive matter as the Department is under a federal corrective action plan by the Office of Child Care assistance and rules need to be in place by July 1, 2020, so the Department does not incur a fiscal penalty for failure to remove the 12-month limit on eligibility.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on February 26, 2020, as **ARC 4937C**.

No public comments were received.

No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Human Services Department on April 8, 2020.

Fiscal Impact

The current CCA Plus program is based on income limits of 85% of the state median income limit and is limited to 12 months. The time limit is in conflict with federal regulations. Effective July 1, 2020, the time limit will be eliminated and the eligibility criteria will be reduced to 225% of the federal poverty level. Caseloads are projected to temporarily decrease slightly in SFY21 as the cases transition to the new eligibility criteria. The change in the infant and toddler definition recommended by the Governor is also incorporated in this estimate. $354 is the projected average monthly cost per case for CCA Plus for SFY21 based on actuals through December 31, 2019, including the additional cost to CCA Plus due to the infant and toddler definition change.

Jobs Impact

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

R-1

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to rule 441-1.8(17A, 217).

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making will become effective on July 1, 2020. The following rule-making action is adopted:

a. Income limits.

(1) For initial eligibility, an applicant family's nonexempt gross monthly income as established in paragraph 170.2(1)*"c"* cannot exceed the amounts in this subparagraph.

1. 145 percent of the federal poverty level applicable to the family size for children needing basic care; or 2. 200 percent of the federal poverty level applicable to the family size for children needing special-needs care; or

3. 85 percent of Iowa's median family income, if that figure is lower than the standard in numbered paragraph "1" or "2."

(2) For ongoing eligibility, at the time of a family's annual eligibility redetermination as described in subrule 170.3(5), the family's nonexempt gross monthly income as established in paragraph 170.2(1)*"c"* cannot exceed the amounts in this subparagraph.

1. 225 percent of the federal poverty level applicable to the family size for children needing basic care or special-needs care; or

2. 85 percent of Iowa's median family income, if that figure is lower than the standard in numbered paragraph "1."

ITEM 2. Amend paragraph **170.4(2)"a"** as follows: *a. Sliding fee schedule.*

(1) The fee schedule shown in the following table is effective for eligibility determinations made on or after July 1, ~~2019~~ 2020:

Use chart published in Noticed rules.

(2) No change.

ITEM 3. Amend subparagraph **170.4(7)"a"(2)** as follows:

(2) Under age group, "infant and toddler" shall mean age two weeks to ~~two~~ three years; "preschool" shall mean ~~two~~ three years to school age; "school age" shall mean a child in attendance in full-day or half-day classes.

Iowa Department of Human Services **Information on Proposed Rules**

Name of Program Specialist Mark Adams	Telephone Number 281-5688	Email Address Madams4@dhs.state.ia.us

1. Give a brief purpose and summary of the rulemaking:

Revise 441 IAC 170.2(1) to update the eligibility guidelines for the Child Care Assistance (CCA) Plus program. The 12-month limit on eligibility is being removed and the income guideline is being revised. Definition of “infant/toddler” and “preschool” for the purposes of provider reimbursement are being changed.

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

Iowa Code 234.6

3. Describe who this rulemaking will positively or adversely impact.

Families who are eligible for the CCA Plus program will no longer be limited to a single 12-month eligibility period. The family will remain eligible for CCA Plus until their income exceeds 225% of the Federal Poverty Level (FPL). Children who are 2 years old will now be considered “infant/toddler” instead of “preschool” under the CCA program.

4. 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).

5. What are the likely areas of public comment? None expected.

6. 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.

470-4673 (Rev. 09/18) 1

Administrative Rule Fiscal Impact Statement

Date: January 15, 2020

Agency Human Services

IAC citation: 441 IAC 170 **Agency contact:** Mark Adams

Summary of the rule:

Change the eligibility guidelines for the Child Care Assistance Plus program, annual FPL changes to the co-- pay chart and change the definition of "infant/toddler" in the payment rate tables to include children up to 3 years old. The CCA Plus changes are the 12-month limit on eligibility is being removed and the income guideline is being revised.

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:

Budget Analysts must complete this section for ALL fiscal impact statements.

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:

CCA Plus:
The current CCA Plus exit eligibility program is based on income up to 85% of the state median income and is limited to 12 months. The time limit is in conflict with federal regulations. Effective July 1, 2020, the time limit will be eliminated and the income eligibility criteria will be reduced to 225% of the federal poverty level as recommended in the Governor's budget. Caseloads are projected to temporarily decrease slightly in SFY21 as cases transition to the new eligibility criteria. The change in the infant and toddler definition recommended by the Governor is also incorporated into this CCA Plus estimate.

$354 is the projected average monthly cost per case for CCA Plus for SFY21 based on actuals through December 31, 2019, including the additional cost to CCA Plus due to the infant and toddler definition change.

The monthly average number of children has been estimated as shown in the estimate section below based on the following assumptions.

2020 Budget: The 12-month time limit remains in effect; assumes level caseloads due to the number of children added each month is equal to the number of children going off. The SFY20 budget for CCA Plus is $6,753,913.

2021 Projections: Transition year - 12-month time limit and eligibility up to 85% of SMI is eliminated and replaced with lower eligibility tier of up to 225% FPL. Assumes 132 children each month will reach the end of the 12-month time limit, replaced with 129 children each month to be paid at the new 2nd tier.

2022 Projections: Assumes 70 more children will be added than the number of children aging out each month

2023 Projections: Assumes 32 more children will be added than the number of children aging out each month.
2024 Projections: Assumes 16 more children will be added than the number of children aging out each month.
2025 Projections: Assumes 8 more children will be added than the number of children aging out each month.
2026 Projections: Assumes 4 more children will be added than the number of children aging out each month.
2027 Projections: Assumes caseloads will level off at an average of 2,990 children per month with the number of children aging out each month equal to the number of new children added.

Changes to the Co-Pay Chart:
There is no fiscal impact. The annual changes to the federal poverty levels simply allow the co-pay amounts to stay the same when annual cost of living pay raises are received by parents of eligible children.

Changes to the Infant and Toddler Definition:
The definition of the infant and toddler group will change to include children up to 3 years old instead of the current 2 years old. The result is that providers will be paid for 2 year old children at the higher infant and toddler rate instead of the preschool rate. This additional income will allow child care providers the means to maintain staffing levels to better care for 2 year old children.

The cost estimates are based on the average of the highest and lowest rate ceilings per unit. The number of children subject to the change for each provider type has been estimated as shown in the cost estimate below. The estimates assume 16 units per pay period and 26 pay periods per year.

Describe how estimates were derived:

CCA Plus:
The cost calculations below are: the average monthly number of children x the average monthly cost per case x 12 months = annual cost - SFY20 budget = cost increase.

2021 Projections: 1,522 x $354 x 12 = $6,465,456 - $6,753,913 = ($288,457)

2022 Projections: 1,918 x $354 x 12 = $8,147,664 - $6,753,913 = $1,393,751

2023 Projections: 2,483 x $354 x 12 = $10,547,784 - $6,753,913 = $3,793,871

2024 Projections: 2,754 x $354 x 12 = $11,698,992 - $6,753,913 = $4,945,079 2025 Projections: 2,896 x

$354 x 12 = $12,302,208 - $6,753,913 = $5,548,295

2026 Projections: 2,970 x $354 x 12 = $12,616,560 - $6,753,913 = $5,862,647

2027 Projections: 2,990 x $354 x 12 = $12,701,520 - $6,753,913 = $5,947,607

There will be cost savings in the first year, with costs increasing annually thereafter until the cost is expected to level off at about $12.7 million in SFY27. These estimates assume the cost per case remains the same as SFY21 and assumes the caseloads in the regular CCA Subsidy program remain the same as the current projections for SFY21.

470-4673 Changes to the Co-Pay Chart:

There is no fiscal impact. The annual changes to the federal poverty levels simply allow the co-pay amounts to stay the same when pay raises are received by parents of eligible children.

Changes to the Infant and Toddler Definition:
The cost calculations below are: the number of children subject to the change x the rate increase x 16 units per pay period x 26 pay periods per year = the annual cost of the change.

Centers 1,780.24 children x $2.73 x 16 x 26 = $2,021,783 A/B Homes
1,017.28 children x $0.365 x 16 x 26 = $154,464 C Homes 127.16 children
x $0.25 x 16 x 26 = $13,225
Nonregistered Homes 254.32 children x $1.00 x 16 x 26 = $105,797 Total

Annual Cost = $2,295,269

Total Cost of Changes by State Fiscal Year:	Incremental Changes
SFY21: CCA Plus ($288,457) + $2,295,269 = $2,006,812	$2,006 ,812
SFY22: CCA Plus $1,393,751 + $2,295,269 = $3,689,020	$1,682 ,208
SFY23: CCA Plus $3,793,871 + $2,295,269 = $6,089,140	$2,400,120
SFY24: CCA Plus $4,945,079 + $2,295,269 = $7,240,348	$1,151,208
SFY25: CCA Plus $5,548,295 + $2,295 ,269 = $7,843,564	$ 603,216
SFY26: CCA Plus $5,862,647 + $2,295,269 = $8,157,916	$ 314,352
SFY27: CCA Plus $5,947 ,607 + $2,295,269 = $8,242 ,876	$ 84,960

Estimated Impact to the State by Fiscal Year

	Year 1 (FY 2021)	Year 2 (FY 2022)
Revenue by each source:		
General fund	6 ,753,913.00	6,753,913.00
Federal funds		
Other (specify):		
TOTAL REVENUE	6,753,913.00	6,753,913.00
Expenditures:		
General fund	8,760,725.00	10,442,933.00
Federal funds		
Other (specify):		
TOTAL EXPENDITURES	8,760,725 .00	10,442,933.00
NET IMPACT	-2,006,812.00	-3,689,020.00

This rule is required by state law or federal mandate.

Please identify the state or federal law:

Identify provided change fiscal persons:

The federal requirements found in the final rule implementing the Child Care and Development Fund Block Grant Act of 2014 and Iowa Code 234.6.

Funding has been provided for the rule change.

Please identify the amount provided and the funding source:

The amount of federal CCDF funds to be carried forward at the end of SFY21 and SFY22 is expected to be sufficient to make existing general funds available to fund these changes through SFY23.

Funding has not been provided for the rule.

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

Additional state general funds will need to be requested for SFY24 and annually through SFY27. Any increases in federal CCDF funds received for FFY22 through FFY27 that may occur will reduce the need for additional state general funds in the overall Child Care appropriation.

Fiscal impact to persons affected by the rule:

Families with income up to 225% of the federal poverty level (FPL) will continue to be eligible for the CCA Plus program and will no longer be limited to one 12-month eligibility period. They will remain eligible until their income exceeds 225% FPL or the children age out.

Parents that receive annual cost of living wage increases will not be subject to increased co-pays due to the adjusted income levels on the co-pay chart.

Child Care providers will receive a higher reimbursement rate for 2 year old children. This will allow them to maintain staffing levels to better care for 2 year old children.

Fiscal impact to counties or other local governments (required by Iowa Code 258.6):
None anticipated .

Agency representative preparing estimate: Kathy Blume

Telephone number: (515) 281-4196

JH
2-5-20

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

Proposing rule making related to family foster care homes and providing an opportunity for public comment.

The Human Services Department hereby proposes to amend Chapter 113, “Licensing and Regulation of Foster Family Homes,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 217.6.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 217.6.

Purpose and Summary

The President signed the Bipartisan Budget Act of 2018, Public Law (P.L.) 115-123 into law on February 9, 2018. P.L. 115-123 includes the Families First Prevention Services Act (FFPSA) in Division E, Title VII. Section 50731 of the FFPSA directs the federal Department of Health and Human Services (HHS) to "identify reputable model licensing standards with respect to the licensing of foster family homes" (as defined in section 472(c)(1) of the Social Security Ac)t. In response to this directive, the Children's Bureau of HHS issued the National Model Foster Family Home Licensing Standards.

The Model Licensing Standards were to be in effect April 1, 2019. The Department requested additional time from the federal Department of Health and Human Services (HHS) to implement the standards through administrative rules. Additional time was approved by HHS. The Department is moving forward with this rulemaking as Iowa is out of compliance in several areas. Failure to meet the Model Family Home Foster Licensing Standards could result in the loss of Iowa’s IV-E federal funding.

The proposed amendments pertain to the licensing and regulation of foster family homes and are required to align with the federal model licensing standards.

The following requirements have been added to the administrative rules:

- Applicants must be able to communicate with the licensing agency, health care and other service providers. At least one applicant in the home must have functional literacy; a level of reading, writing and calculation skills sufficient to function in the community in which an individual lives. An example for a foster parent would be to have the ability to read labels on medications in order to properly administer the medications to a child.
- Applicants and all household members must disclose any past or current mental health and/or substance abuse issues. The agency may require further documentation and/or evaluation to determine the suitability of the home. There must be at least one scheduled in-home, individual interview of each household member to observe family functioning and assess the family's capacity to meet the needs of a child in foster care. The contracted agency will determine whether to interview or just observe each household member based on his or her age and development.
- All household members who are caregivers must have up to date whooping cough vaccines unless contrary to the person's health.
- The contracted agency must obtain at least three references, including at least one from a relative and one from a non-relative.

The applicant's home must meet the following standards concerning swimming pools, hot tubs and spas:

Swimming pools must have a barrier on all sides at least four feet high.

Swimming pools must have their methods of access through the barrier equipped with a safety device, such as a bolt lock.

Swimming pools must be equipped with a life saving device, such as a ring buoy.

If the swimming pool cannot be emptied after each use, the pool must have a working pump and filter system.

Hot tubs and spas must have safety covers that are locked when not in use.

- The applicants' home must meet the following standards concerning hazardous materials and first aid supplies:

  Applicants must prevent the child's access, as appropriate for his or her age and other development, to all medications, poisonous materials, cleaning supplies, other hazardous materials and alcoholic beverages.

  All medications should be kept in a locked cabinet.

  Applicants must maintain first aid supplies as recommended by the American Red Cross.

- Assurances from applicants must be agreed upon including:

  They will not use any corporal or degrading punishment on any child in the home.

  They will not use any illegal substances, abuse alcohol by consuming it in excess amounts, or abuse legal prescription and nonprescription drugs by consuming them in excess amounts or using them contrary as indicated.

Weapons and ammunition must be separately store, locked, unloaded and inaccessible to children. Previously the rules listed that weapons and firearms shall be maintained in a locked place such as a gun case. Federal requirements now specify the type of place and a listing of weapons and ammunition which must be identified in the rule. Failure to adopt rules with this specific language will place Iowa at risk of losing IV-E federal funding.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to rule 441-1.8, (17A, 217).

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on April 28, 2020. Comments should be directed to:

Nancy Freudenberg
Iowa Department of Human Services
Hoover State Office Building, Fifth Floor

1305 East Walnut Street
Des Moines, Iowa 50319-0114
Email: appeals@dhs.state.ia.us

Public Hearing

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)“b,” an oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its regular monthly meeting or at a special meeting. The Committee’s meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making action is proposed:

Proposed Rule Changes
441-113

ITEM 1. Amend paragraph 113.3(4) "a" as follows:

a. Process. Information for the home study is gathered primarily through the required preservice training as described in rule 441—117.1(237). Tribal agencies may also be involved in conducting home studies for American Indian and Alaska Native children. 42 U.S.C.A. sec 671 (26)(B) provides that any receiving state must treat any tribal home study report as meeting the requirements imposed by the state for the completion of a home study.

ITEM 2. Amend subrule 113.3(4) (a) (2) as follows:

(2) The worker shall hold at least one face-to-face interview with each member of the household in the applicant's home to observe family functioning and to assess the family's capacity to meet the needs of a child in foster care. The worker will determine whether to interview or just observe each household member based on his or her age and development.

ITEM 3. Amend subrule 113.3(4) (b) (5) as follows:

(5) Medical, mental, and emotional conditions that may affect the applicant's ability to parent a child; treatment history; current status of treatment; and the evaluation of the treatment. Applicants and all household members must disclose any past or current mental health and/or substance abuse issues. The Department may require further documentation and/or evaluation to determine the suitability of the home.

ITEM 4. Adopt the **new** subrule 113.3 (4)(b)(6) as follows:

(6) All children who are household members must be up to date on immunizations, jointly recommended by the American Academy of Pediatrics, the Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention, and the American Academy of Family Physicians, unless the immunization is contrary to the child's health as documented by a licensed health care professional.

ITEM 5. Adopt the renumbering of subrule 113.3(4)(b)(7), (8), (9), (10), (11), (12), (13), (14), (15), (16), and (17).

~~(6)~~(7) An evaluation of the applicant's willingness to accept a child who has medical problems (such as HIV), an intellectual disability, or emotional or behavioral problems. The applicant shall complete the department form to indicate choices about caring for children who have or are at risk for HIV infection and other medical problems.
~~(7)~~(8) The applicant's ability to provide for a child's physical, medical, and emotional needs and respect the child's ethnic and religious identity.
~~(8)~~(9) The safety of foster children in relation to any animals that live on the applicant's property.
~~(9)~~(10) The adjustment of any children in the home, including their attitudes toward foster care and adoption, relationships with others, and school performance.
~~(10)~~(11) An assessment of the applicant's disciplinary techniques and practices.
~~(11)~~(12) The applicant's financial information and ability to provide for a child.
~~(12)~~(13) The applicant's attitude toward the foster child's birth parents and siblings.
~~(13)~~(14) The applicant's commitment to and capacity to maintain a foster child's significant relationships and work with the child's parents when the permanency goal is reunification.
~~(14)~~(15) Any history of substance use or substance abuse by family members or members of the household, including treatment history and current status of treatment.
~~(15)~~(16) Any history of abuse by family members or members of the household, including treatment history, current status of treatment, and how this issue would affect the applicant's ability to be a foster parent.
~~(16)~~(17) Any criminal convictions of family members or adults in the household and the evaluation of the criminal record.

ITEM 6. Amend subparagraph 113.5(2) (c) as follows:

c. ~~When there is a swimming pool or child's plastic pool on the premises:~~ The applicants' home must meet the following standards concerning swimming pools, hot tubs and spas:

ITEM 7. Amend the subrule 113.5(2)(1) as follows:

(1) A child's plastic pool shall be drained daily and shall be inaccessible to children when it is not in use. Swimming pools must have a barrier on all sides at least four feet high.

ITEM 8. Amend subparagraph 113.5(2)(C)(2) as follows:

2) An aboveground or in-ground swimming pool that is not fenced shall be covered whenever the pool is not in use. The cover shall meet or exceed the ASTM International (formerly known as the American Society for Testing and Materials) specification intended to reduce the risk of drowning by inhibiting access to the water by children under five years of age.~~–~~ Swimming pools must have their methods of access through the barrier equipped with a safety device, such as a bolt lock.

ITEM 9. Amend subparagraph 113.5(2)(C)(3) as follows:

(3) ~~An uncovered aboveground swimming pool shall be enclosed with an approved fence that is nonclimbable and is at least four feet high. The height of the side of the pool may be included.~~ Swimming pools must be equipped with a life saving device, such as a ring buoy.

ITEM 10. Amend subparagraph 113.5(2)(C)(4) as follows:

(4) ~~An uncovered in-ground swimming pool flush with the ground shall be enclosed with an approved fence that is nonclimbable and is at least four feet high.~~ If the swimming pool cannot be emptied after each use, the pool must have a working pump and filtering system.

ITEM 11. Adopt the following **new** subparagraph 113.5(2)(C)(5) as follows:

(5) Hot tubs and spas must have safety covers that are locked when not in use.

ITEM 12. Adopt the following **new** subparagraph 113.5(2)(C)(6) as follows:

(6) The foster parent or other adult shall provide reasonable supervision according to the ages and swimming abilities of the foster children when they are using the pool.

ITEM 13. Rescind subparagraph113.5(2)(C)(6)(d) as follows:

~~*d.* If children are allowed to use an aboveground or in-ground swimming pool, or other body of water:~~

ITEM 14. Rescind subparagraph 113.5(2)(C)(6)(d)(1) as follows:

~~(1) Equipment needed to rescue a child or adult shall be readily accessible.~~

ITEM 15. Amend subparagraph 113.5(6)(a)(1) as follows:

(1) Children over 5 years of age shall not share a bedroom with a child of the opposite sex.

ITEM 16. Amend paragraph 113.5(6)(b)

b. Children 2 years of age or older shall be provided bedroom space other than in the foster parents' bedroom. Foster children under the age of 2 may share a bedroom with the foster parent in an individual crib.

ITEM 17. Amend Rule 113.5(9) as follows:

113.5(9) *Bathroom facilities.*

ITEM 18. Adopt the following **new** subrule 113.5(9) (a) as follows:

a. Have at least one toilet, sink, and tub or shower in safe operating condition.

ITEM 19. Amend the relettering of subrule 113.5(9)(b)

b. Toilet facilities shall have natural or artificial ventilation

ITEM 20. Rescind subrule 113.5(9) (C) as follows:

c. ~~All toilet facilities shall be maintained in a clean and working condition.~~

ITEM 21. Amend subrule 113.5(10) (b) as follows:

b. Fireplaces and water heaters shall be vented to the outside atmosphere. The temperature of any water heaters must be set in accordance to the manufacturer's recommendations.

ITEM 22. Adopt the following **new** Rule 113.5(12) as follows:

113.5(12) *Phone*. A working phone or access to a working phone shall be in close walking proximity to applicant's living space .

ITEM 23. Amend Rule 113.6(1) as follows:

113.6(1) *Food preparation and storage.* Food preparation areas shall be clean, and the home shall have kitchen facilities with a sink, refrigerator, stove, and oven in safe operating condition. ~~and there shall be facilities to store perishable food at cold temperatures and storage areas for other nonperishable food supplies.~~

ITEM 24. Amend Rule 113.6(6) as follows:

113.6(6) *Rodent and insect infestation.* The home shall prevent or eliminate rodent and insect infestation.

ITEM 25. Amend subrule 113.7(1)(a) as follows:

a. At least one UL (Underwriter's Laboratory approved smoke detector. ~~A working smoke detector.~~

ITEM 26. Amend Rule 113.7(3) as follows:

113.7(3) *Safety plan.* The family shall have an emergency safety plan to be used for fire, tornado, blizzard, flood, other natural or manmade disasters, accidents, medical issues, and other life-threatening situations for children in out-of-home placements. The safety plans shall state the action that the foster parents and children are to take in each situation that may occur and shall be posted in a prominent place of the home.

ITEM 27. Amend subrule 113.7(3)(d) as follows:

d. Applicants must maintain a comprehensive list of emergency telephone numbers, including poison control and post those numbers in a prominent place in the home. If there is a landline phone located in the home, the numbers must be posted next to the phone.

ITEM 28. Amend subrule 113.7(4) as follows:

113.7(4) ~~*Medications and poisonous substances.*~~ *Medications, first aid and poisonous substances.* ~~All medications and poisonous, toxic, or otherwise unsafe substances shall be kept secured from access by children.~~

ITEM 29: Adopt paragraph 113.7(4)(c) as follows:

c. Applicants must prevent the child's access, as appropriate for his or her age and development, to all medications, poisonous materials, cleaning supplies, other hazardous materials and alcoholic beverages.

ITEM 30: Adopt paragraph 113.7(4)(d) as follows:

d. Applicants must maintain first aid supplies as recommended by the Red Cross.

ITEM 31: Amend paragraph 113.7(5)(a) as follows:

a. The following weapons and firearms ~~shall be maintained in a locked place, such as a gun case.~~must be stored in an inoperative condition in a locked area inaccessible to children:

1. Firearems;
2. Air guns;
3. BB guns;
4. Hunting slingshots;
5. Any other projectile weapons

ITEM 32: Amend paragraph 113.7(5)(b) as follows:

b. All ammunition, arrows or projectiles for such weapons shall be maintained in a locked place separate from the firearms

ITEM 33: Adopt paragraph 113.7(5)(f) as follows:

f. Foster parents who are also law enforcement officials and can document that their jurisdiction requires them to have ready and immediate access to their weapons may be exempt from these weapon requirements provided they adopt and follow a safety plan approved by the agency.

ITEM 34. Rescind 113.7(6) (a) (b).

~~a. Foster parents shall have a valid Iowa driver's license and adequate motor vehicle insurance when the foster parents transport foster children in a motor vehicle.~~

~~b. Foster parents shall ensure that appropriate child safety restraints, as required by Iowa law, are used for all foster children when the foster parents transport the children in a motor vehicle.~~

ITEM 35. Adopt subrules 113.7(6) (a), (b), (c), (d), (e) (f) as follows:

113.7(6) *Transporting foster children.*

a. Foster parents will ensure that if a privately-owned vehicle, owned by the applicants, family or friends, is used to transport the child in foster care, it must be inspected, (if applicable under state law), registered, and insured, and meet all applicable state or tribal requirements to be an operable vehicle on the road. b. The driver will have a valid Iowa driver's license.

c. Safety restraints will be used that are appropriate to the child's age, height, and weight.

d. Any motor vehicles used to transport foster children shall be smoke-free when foster children are being transported.

e. Weapons must not be transported in any vehicle in which the child is riding unless the weapons are made inoperable and inaccessible.

f. Foster parents will have access to a reliable public transportation if they do not have access to a reliable, registered, and insured vehicle.

ITEM 36. Adopt Rule 113.11(3) as follows:

113.11(3) *Whooping cough vaccine*. All household members who are caregivers must have up to date whooping cough vaccine, unless contrary to the person's health.

ITEM 37. Adopt the renumbering of subrule113.11(4) as follows:

113.11(4) *Capability for caring for the child.* If there is evidence that the foster parent is unable to provide necessary care for the child, the department licensing worker, the recruitment and retention contractor, or the physician may require additional medical and mental health reports, including a substance abuse evaluation.

ITEM 38. Adopt subrules 113.12(5)(d) and (e) as follows:

d. Be able to communicate with the licensing agency and health care and other service providers.
e. Have functional literacy, a level of reading, writing and calculation skills, such as have the ability to read labels on medications in order to properly administer them.

ITEM 39: Adopt the following subrule 113.12(5)(e) as follows:

e. At least one applicant in the home must have functional literacy, such as have the ability to read labels on medications in order to properly administer them.

ITEM 40: Adopt the renumbering of subrule 113.12(5)(f), (g), (h), (i), (j), and (k).

~~d.~~f. Be able to accept and deal with acting out behavior with realistic expectations and good judgment.
~~e.~~g. Include foster children in normal family life.
~~f.~~*h.* Have the ability to be accepting and loving toward a foster child entering the home.
~~g.~~*i.* Be able to support the case permanency plan for the foster child and be willing to cooperate with visits, transportation, or other activities that support the child's connection to and reunification with the child's family.
~~h.~~j. Ensure that all family members are aware of having foster children in the home.
~~i.~~k. Articulate their strengths and concerns and limitations which are essential to the department's matching the foster children with foster parents appropriately.

ITEM 41: Amend Rule 113.14(1) as follows:

113.14(1) At least three additional unsolicited references shall be checked for all foster family home applicants in addition to a minimum of three references provided by the applicant. Required references shall include a minimum of one relative and one non-relative.

Iowa Department of Human Services

Information on Proposed Rules

Name of Program Specialist	Telephone Number	Email Address
Nancy Swanson	515-281-6379	nswanso@dhs.state.ia.us

1. Give a brief purpose and summary of the rulemaking:

   These rule changes pertain to the licensing and regulation of foster family homes per 441 IAC 113 and are required to align with the federal model licensing standards.

   The following requirements have been added to the rules:

   - Applicants must be able to communicate with the licensing agency and health care and other service providers
   - At least one applicant in the home must have functional literacy, a level of reading, writing and calculation skills sufficient to function in the community in which an individual lives. An example for a foster parent would be to have the ability to read labels on medications in order to properly administer to a child.
   - Applicants and all household members must disclose any past or current mental health and/or substance abuse issues. The agency may require further documentation and/or evaluation to determine the suitability of the home.
   - There must be at least one scheduled in-home, individual interview of each household member to observe family functioning and assess the family's capacity to meet the needs of a child in foster care. The contracted agency will determine whether to interview or just observe each household member based on his or her age and development.
   - All household members who are caregivers must have up to date whooping cough vaccines unless contrary to the person's health.
   - The contracted agency must obtain at least three references, including at least one from a relative and one from a non-relative.
   - The applicant's home must meet the following standards concerning swimming pools, hot tubs, and spas:
     - Swimming pools must have a barrier on all sides at least four feet high.
     - Swimming pools must have their methods of access through the barrier equipped with a safety devise, such as a bolt lock.
     - Swimming pools must be equipped with a life saving device, such as a ring buoy.
     - If the swimming pool cannot be emptied after each use, the pool must have a working pump and filtering system.
     - Hot tubs and spas must have safety covers that are locked when not in use.
   - The applicants' home must meet the following standards concerning hazardous materials and first aid supplies:
     - Applicants must prevent the child's access, as appropriate for his or her age and development, to all medications, poisonous materials, cleaning supplies, other hazardous materials, and alcoholic beverages. All medication should be kept in a locked cabinet.
     - Applicants must maintain first aid supplies as recommended by the Red Cross.
   - Assurances from applicants must be agreed upon including:
     - They will not use any corporal or degrading punishment on any child in the home.
     - They will not use any illegal substances, abuse alcohol by consuming it in excess amounts, or abuse legal prescription and nonprescription drugs by consuming them in excess amounts or using them contrary to as indicated.

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

   The Iowa Standards in IAC 441-113 were not consistent with the Model Family Foster Home Licensing Standards established by the Federal Government.

3. Describe who this rulemaking will positively or adversely impact.

   Standardizing the Iowa Rules to align with the federal requirements will provide clarity to field staff as well as clear direction to providers for the contracted agency.

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

   No. These rule changes are based on federal policy.

5. What are the likely areas of public comment?

   The public would likely support these changes as they will provide greater clarity and would allow the Department to meet federal requirements. Current contractors may feel that it will create additional work, but ultimately the changes will hold them more accountable and allow more oversight to ensure compliance.

6. 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 impact is expected to private sector jobs or employment opportunities in Iowa.

Administrative Rule Fiscal Impact Statement

Date: January 7, 2020

Agency: Human Services

IAC citation: 441 IAC 113

Agency contact: Nancy Swanson

Summary of the rule:

These rule changes pertain to the licensing and regulation of foster family homes per 441 IAC 113 and are required to align with the federal model licensing standards.

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:

Budget Analysts must complete this section for ALL fiscal impact statements.

No fiscal impact to the state is anticipated due to the following reasons:
There isn't any increase in the workload of DHS workers as the responsibility falls on foster homes and our contractor to be in compliance.
DHS workers are ensuring compliance with regulations and licensing; nothing new is being added to their responsibility of oversight.
No required training so therefore no increase in DHS worker responsibility.
There are no system changes required; therefore, no cost to the state for updates to information systems.

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 2021)	**Year 2 (FY 2022)**
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:
Identify provided change fiscal persons:

☐ 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 to the state.

Fiscal impact to persons affected by the rule:
Current contractors may feel that it will create additional work, but ultimately the changes will hold them more accountable and allow more oversight to ensure compliance.

Fiscal impact to counties or other local governments (required by Iowa Code 25B.6):
None anticipated.

Agency representative preparing estimate: David Philmon

Telephone number: 515-281-6856

JH
1-8-2020