



STATE OF IOWA

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DEPARTMENT OF HUMAN SERVICES
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November 6, 2009

GENERAL LETTER NO. 3-G-2

ISSUED BY: Division of Field Operations

SUBJECT: Employees' Manual, Title 3, Chapter G, **GENERAL FACILITY POLICIES**, Title page, revised; Contents, page 1, revised, and page 2, new; pages 1 through 11, revised; and pages 12 through 41, new.

Summary

Chapter 3-G is renamed **GENERAL FACILITY POLICIES**, and now contains policies and procedures that apply to more than one type of facility. The policies added include:

- ◆ Governing Body
- ◆ Advanced Directives
- ◆ Confidentiality of Individual's Information
- ◆ Individual's Personal Accounts

Effective Date

Upon receipt.

Material Superseded

This material supersedes the entire Chapter G from Employees' Manual, Title 3, which includes the following pages:

<u>Page</u>	<u>Date</u>
Title page	October 12, 2007
Contents (page 1)	October 12, 2007
1-11	October 12, 2007

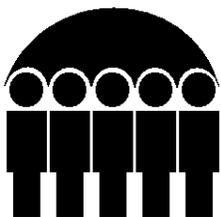
Additional Information

Refer questions about this general letter to the deputy director for field operations.

Revised November 6, 2009

Employees' Manual
Title 3
Chapter G

GENERAL FACILITY POLICIES



Iowa
Department
of
Human Services

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Overview

The Iowa Department of Human Services is the state agency statutorily responsible for the administration of human service programs for the people of Iowa (Iowa Code section 217.1).

The governor appoints the director of the Department of Human Services. A seven-member Council on Human Services, appointed by the governor, acts in an advisory and policy making capacity on budget matters for the Department.

The deputy director for field operations is appointed by the director under Iowa Code Chapter 218.1 to control, manage, direct, and operate the facilities under the director's jurisdiction. The facilities covered by the policies in this chapter are:

- ◆ The state mental health institutes,
- ◆ The state resource centers,
- ◆ The state training schools at Eldora and Toledo,
- ◆ The Iowa juvenile home, and
- ◆ The civil commitment unit for sexual offenders (CCUSO).

The mission statement adopted by the Department is:

"The Mission of the Iowa Department of Human Services is to help individuals and families achieve safe, stable, self-sufficient, and healthy lives, thereby contributing to the economic growth of the state. We do this by keeping a customer focus, striving for excellence, sound stewardship of state resources, maximizing the use of federal funding and leveraging opportunities, and by working with our public and private partners to achieve results."

Legal Basis

Iowa Code Chapter 218 governs the general operations of the mental health institutes, state resource centers, juvenile home, and state training schools.

Iowa Code section 218.1 provides that the operations of the facilities are under the authority of the director of human services and that the director may assign the director's authority to a deputy director.

Iowa Code Chapter 222 governs the operation of the state resource centers at Glenwood and Woodward.

Iowa Code Chapter 226 governs the operation of the state mental health institutes at Clarinda, Cherokee, Independence, and Mt. Pleasant.

Iowa Code, sections 226.1(1)(c) and 229A.12 govern the operation of the civil commitment unit for sexual offenders at Cherokee.

Iowa Code Chapter 233A governs the operation of the state training schools at Eldora and Toledo.

Iowa Code Chapter 233B governs the operation of the Iowa juvenile home at Toledo.

Definitions

“Administrator” means the person appointed to direct the overall operation of the civil commitment unit for sexual offenders.

“Business day” means a working day in the usual Monday-through-Friday workweek. A holiday falling within this workweek shall not be counted as a business day.

“Director” means the director of the Department of Human Services as defined in Iowa Code section 217.5.

“Deputy director” means the Department’s deputy director for field operations.

“Facility” means the four mental health institutes, the two resource centers, the two training schools, the civil commitment unit for sexual offenders, and the juvenile home.

“Superintendent” means the person appointed by the deputy director to direct the overall operation of a mental health institute, a resource center, a training school or the juvenile home.

Policy on Facility Governing Body

The deputy director for field operations serves as the governing body for the facilities under the jurisdiction of the Department. The governing body is responsible for general oversight and management of the facilities. The superintendents are under the operational direction of the deputy director. Oversight is provided through regular meetings, reporting, and field operation's employee visits.

Definitions for Governing Body

"Clinical staff" means a group of specialized professional employees who are required to be licensed, accredited, or certified to practice in their field of specialty. For the purposes of this policy, clinical staff includes but is not limited to dentistry, medicine, neurology, neuropsychiatry, nursing, nutrition, occupational therapy, pharmacology, physical therapy, psychiatry, psychology, social work, and speech and language pathology.

"Medical staff" means a physician, an advance registered nurse practitioner, or a physician assistant.

"Office of the governing body" means the central office employees reporting to the deputy director for field operations.

Appointment of Governing Body

The director appoints the deputy director for field operations as the governing body of the facilities. The deputy director serves at the will of the director and constitutes the membership of the governing body.

The governing body member is an official of the state as defined in Iowa Code section 68B.2(17) and shall carry out governing body functions in conformance with the laws of the state of Iowa.

The governing body, as deputy director for field operations, has the ultimate responsibility and legal authority for the safety and quality of care, treatment, and services provided by the facility and shall carry out these functions and duties delegated to the deputy director by the director.

All rules, regulations, policies, or procedures adopted by a facility are subject to the review and approval of the governing body.

Duties of Governing Body

The governing body's duties include but are not limited to:

- ◆ Defining the scope of services to be provided by each facility in accordance with each facility's Code of Iowa authorization. Any service to be provided beyond those authorized by Code of Iowa shall require the prior approval of the governing body.
- ◆ Working with each facility in the development of budget requests necessary to support the facility's scope of service and to seek appropriate funding from the legislature through the Department's budget and appropriation process.
- ◆ Conducting at least quarterly meetings with all of the superintendents of the facilities under the deputy director's administration and related administrative staff, as required by Iowa Code section 218.45.
- ◆ Visiting, or causing to be visited by an employee of the office of the deputy director, each facility under its administration at least once every six months.

The governing body delegates to the superintendent of each facility responsibility for maintaining records of each visit. Minutes of governing body visits shall be kept on file in the office of the superintendent.

- ◆ Providing for resources and support systems for the quality assessment and improvement functions and risk management functions related to the care and safety of individuals served.
- ◆ Applying established mechanisms for administrative and clinical reporting to assure that delegated responsibilities are being met. These shall include, but not be limited to the following:
 - Monthly and annual superintendent reports.
 - Monthly and annual population movement reports.
 - Monthly and annual statistical summaries.
 - Monthly and annual accounting reports as required in Iowa Code sections 218.47 and 218.48.

- ◆ Providing for administrative, clinical, and treatment employee participation in the development of program policies, relative to program management and care of individuals served, through on-site visits, conferences with representatives of administrative, clinical, and treatment employees, and other mechanisms.
- ◆ Approving and annually reviewing each facility's administrative structure and policy and procedures.

Appropriation and Budget

The state legislature annually provides an appropriation that provides financial support for the operation of each facility under the jurisdiction of the governing body. The appropriation covers both operating and capital costs.

Supplemental and emergency appropriations can annually be made without legislative approval between facility appropriation categories consisting of state training school and state juvenile home; mental health institutes; and the resource centers. Transfers beyond established categorical appropriations require legislative approval.

The governor, legislative leadership, and state Department of Management establish a formalized budget development and presentation process annually.

Each facility biennially or annually, as determined by the director of the Department of Management, prepares a budget request to support its programs and submits it to the governing body for approval. The budget request is to include both operating and capital costs. Such requests shall be based upon the facility's planning process and program evaluation.

The Department of Human Services then prepares a budget presentation annually, for legislative review. The Department's approved budget document is available in the office of the governing body.

Each facility shall have a written plan that specifies the process and procedures for developing budget requests necessary to support the program's goals and objectives including a long-term capital plan. This plan shall be developed in coordination with and approved annually by the governing body.

Superintendents

The superintendents shall be responsible to the deputy director and shall comply with all policy, procedures, and directives issued by the deputy director.

Appointing Authority

The governing body shall be the appointing authority for the position of superintendent at each facility as provided in Iowa Code section 218.9 and the administrator of the civil commitment unit for sexual offenders. Each superintendent and the administrator shall serve at the pleasure of the appointing authority.

In filling superintendent or administrator vacancies, a committee appointed by the governing body will screen applicants and make recommendations for appointment. The committee shall represent the facility's medical staff (where appropriate), other facility staff, and the governing body, and it may include other persons as deemed appropriate by the deputy director.

When the superintendent or administrator is to be absent from the facility, the deputy director shall be notified and an appropriately qualified person shall be appointed as the acting superintendent or acting administrator.

Statutory Authority of Superintendent

The statutory authority granted to the superintendents is delimited in the following Iowa Code Chapters:

- ◆ State mental health institutes, Iowa Code Chapter 226.
- ◆ Civil commitment unit for sexual offenders, Iowa Code Chapter 226.
- ◆ State resource centers, Iowa Code Chapter 222.
- ◆ State training schools, Iowa Code Chapter 233A.
- ◆ Iowa juvenile home, Iowa Code Chapter 233B.

General Duties of Superintendent and Administrator

The governing body delegates to the superintendent and the administrator, the responsibility for:

- ◆ Providing leadership that creates an environment or culture that enables the facility to:
 - Fulfill its mission,
 - Meet or exceed its approved goals, and
 - Instill in the employees a sense of ownership and pride in their work processes.
- ◆ Having a mechanism to assure that all necessary licenses and accreditations are in place and maintained.
- ◆ Developing and implementing the policies and procedures necessary for the discharge of the facility's duties, the management of the facility, quality of care, safety of the individuals served, and the admission of individuals, as necessary to carry out the facility's responsibilities.
- ◆ Developing and implementing the necessary administrative and committee structure necessary for the management of the facility and carrying out the facility's responsibilities. NOTE: The committee structure shall be approved by and its activities reviewed annually by the deputy director.
- ◆ Developing policies and allocating available resources to individual facility programs to assure funding to meet service requirements. If adequate funding is not available, the superintendent or administrator shall notify the governing body in writing. NOTE: Approval of the governing body shall be required for all budget revisions.
- ◆ Recruiting and retaining employees.
- ◆ Appointing clinical staff and subordinate officers and employees in accordance with rules established by the Department of Management, the Human Resources Enterprise of the Department of Administrative Services and, when applicable, union contract provisions. NOTE: All appointments of clinical staff shall be reviewed and approved by the governing body.
- ◆ Requiring all subordinate officers and employees to perform their respective duties, regularly evaluating each employee's performance, and taking appropriate personnel action when necessary.

- ◆ Maintaining immediate custody and control of all property used in connection with the facility as provided in Iowa Code section 218.9, subject to the approval of the governing body.
- ◆ Conserving the physical and financial assets of the facility.
- ◆ Establishing and maintaining information and support systems.
- ◆ Directing the performance of accounting and business procedures as provided in the Code of Iowa as follows:
 - Monthly reports: Section 218.47
 - Annual reports: Section 218.48
 - Contingent fund: Section 218.49-51
 - Supplies and purchasing: Sections 218.52-218.56
 - Uniform system of accounting: Section 218.85
 - Facility payrolls: Section 218.88
 - Canteen maintenance: Section 218.98
- ◆ Implementing Iowa Code sections, 218.99, 222.84 through 222.87, 226.43 through 226 .47, 233A.17, 233B.6, 233B.16, and 234.37 that provide for creation of personal accounts for the individuals served and the responsibilities related to the deposit, accounting, and payment of personal funds.
- ◆ Keeping proper books and detailed records of receipts and disposition of all moneys and supplies received on account of any individual served.

Insurance

The state of Iowa is self-insured. Iowa Code Chapter 669, "State Tort Claims," sets forth the procedure by which a person may seek recovery from the state for the torts of state employees or state agencies.

Schedule of Charges

The governing body shall approve a current written schedule of charges.

Governing Body Training

Provisions shall be made for orientation and continuing education for the governing body through on-site visits, seminars, workshops, and other relevant and appropriate resources.

Responsibilities Specific to the Mental Health Institutes

The mental health institute superintendents shall be responsible for developing and implementing policies necessary for operation and management of the medical and clinical staff. These policies shall, at a minimum, do the following:

- ◆ Define the functions of the administrative, professional, and clinical employees of the facility in accordance with appropriate professional standards and local, state, and federal laws and regulations.
- ◆ Define the organizational structure of the clinical staff, including the method for selection, duties, functions, responsibilities, and the composition of any standing committees.
- ◆ Assure that clinical staff has sufficient autonomy and freedom to carry out their responsibilities and sufficient authority to provide high quality of care.
- ◆ Describe the methods for performing credential reviews.
- ◆ Define the procedures for admission to, and retention of, clinical staff membership including delineation and assignment of administrative or clinical authority and responsibilities.
- ◆ Define the procedures for granting or denying staff appointments, curtailments, suspensions or revocations of clinical or staff responsibilities and authorities.
- ◆ Define the procedures for selection of staff officers, directors, and service administrators.
- ◆ Specify the requirements governing evaluations and authentication of medical histories, performance, and recording of physical examinations, and prescribing of medications by authorized and qualified physicians.
- ◆ Specify the requirements governing frequency and staff attendance at general and department service, team, or unit meetings.
- ◆ Delineate clinical privileges of clinical staff and responsibilities of physician members in relation to non-medical staff.

Clinical Staff

Each superintendent shall be the responsible for:

- ◆ Determining the composition of the clinical staff.
- ◆ Establishing the privileging process and credentials review process.
- ◆ Requiring and assuring that the clinical staff abides by the ethical standards established by their professional standards.
- ◆ Assuring that only privileged members of the clinical staff shall admit patients to the hospital.
- ◆ Providing the primary relationship between the facility's clinical staff and the governing body.
- ◆ Presenting for final approval to the governing body the recommendations for the clinical staff regarding staff appointments, reappointments, and privileging.
- ◆ Providing to the governing body on a regular basis clinical staff recommendations.

Medical Staff

Each superintendent shall be responsible for:

- ◆ Establishing and maintaining within the facility the organized medical staff which shall be responsible for uniform quality of care, treatment, and services.
- ◆ Maintaining a medical staff executive committee.
- ◆ Arranging medical staff executive committee meetings and maintaining the minutes from the meetings.

Each medical staff executive committee shall:

- ◆ Develop and submit for governing body approval its by-laws, rules, and regulations.
- ◆ Make specific recommendations to the governing body concerning:
 - The structure of the medical staff;

- The mechanism used to review the current license status, training, experience, competency and ability to perform a requested privilege and to delineate individual clinical privileges;
- Medical staff membership;
- Delineated clinical privileges for each eligible staff member;
- The organization of the medical staff's quality assessment and improvement, activities as well as the mechanism used to conduct, evaluate, and revise such activities;
- The mechanism by which membership on the medical staff may be terminated;
- The mechanism for fair-hearing procedures; and
- Participation in continuing education.

All recommendations, written and oral, shall be presented or authenticated by an authorized representative of the medical staff executive committee.

Medical staff representatives shall have the opportunity to meet at least once every six months with the office of the governing body for the purpose of discussing concerns and recommendations.

Performance Evaluation

The governing body requires a process for performance evaluation, based on job descriptions, for employees who provide patient care services and are not subject to the medical staff privilege delineation process.

Competency Training

The governing body requires a process or processes designed to assure that all employees responsible for the assessment, treatment, or care of patients are competent in the following, as appropriate to the ages of the patients served:

- ◆ Ability to obtain information and interpret information in terms of the patient's needs,
- ◆ Knowledge of growth and development, and
- ◆ Understanding the range of treatment needed by these patients.

Level of Care

The governing body requires mechanisms be in place to assure:

- ◆ The provision of one level of patient care for all programs at each facility.
- ◆ That all patients with the same health problem are receiving the same level of care in the facility.

Reporting

The governing body requires the medical staff and employees of the facility's departments and services to implement and report on the activities and mechanisms for:

- ◆ Monitoring and evaluating the quality of patient care,
- ◆ Identifying opportunities to improve patient care, and
- ◆ Identifying and resolving problems.

The governing body, through the superintendent, shall support these activities and mechanisms.

Planning

Each facility shall have:

- ◆ A written facility plan of the program's goals and objectives and procedures for implementation.
- ◆ An ongoing process for annually updating the facility plan.

The plan shall:

- ◆ Reflect the facility's mission statement.
- ◆ Set out the facility planning, budgeting and control (quality assessment and improvement) activities with adjustments made as necessary.
- ◆ Include the plans for treatment services evaluation and utilization review.

The governing body shall annually review and approve the facility plan as it relates to treatment services, facility management, and program management.

Citizen's Advisory Board

The governing body delegates to the superintendent responsibility for convening a citizen's advisory board at each facility at least quarterly. The purpose of the board is as follows:

- ◆ To inform the superintendent and the administration of the facility how the public interprets:
 - Ongoing facility programs and their effectiveness, and
 - Proposed facility programs.
- ◆ To consult with the superintendent and the facility administration on suggested changes in the facility mission, goals, and policies.
- ◆ To interpret to the public the facility mission, goals, and programs.
- ◆ To recommend to the superintendent and the administration how they can best explain the facility mission, goals, and programs to the public.
- ◆ To assist in making citizens in the facility's catchment area aware of facility services available to them.
- ◆ To provide education on mental health issues and problems.

Community Planning

The governing body delegates to the superintendent responsibility for integrating facility planning into the regional and state plans in coordination with representative community agencies and non-provider individuals.

Responsibilities Specific to the Boys' Training School

The governing body delegates to the superintendent the responsibility for the establishment and operation of the advisory committee required in 441 Iowa Administrative Code 103.21(218,233A). The superintendent shall:

- ◆ With the consent of the deputy director, appoint the membership;
- ◆ Facilitate the called meetings;
- ◆ Consult with the deputy director on the agenda;
- ◆ Take and maintain the minutes from the meetings; and
- ◆ Provide the deputy director with a report of the activities of each committee meeting.

Policy on Advance Directives

The Department has a legal obligation to comply with laws of the state of Iowa in regard to advanced directives. The individuals served by the Department's facilities have the right to prepare advance directives. When an individual served by a facility has an advance directive, the facility is legally obligated to comply with the individual's wishes as stated in the directive.

Legal Basis for Advance Directives

Iowa Code Chapter 144A provides the legal basis for executing a declaration for life-sustaining procedures.

Iowa Code Chapter 144B provides the legal basis for establishing a durable power of attorney for health care.

Iowa Code Chapter 144C provides the legal basis for making a declaration regarding the final disposition of an individual's remains and the ceremonies planned after death.

Definitions for Advance Directives

"Adult" means an individual 18 years of age or older.

"Advance directive" means:

- ◆ A written declaration relating to the use of life-sustaining procedures implemented under Iowa Code Chapter 144A, used when a person is both incapacitated and terminally ill, or
- ◆ A durable power of attorney implemented under of Iowa Code Chapter 144B, used when an individual is unable to make health care decisions, or
- ◆ A declaration of final disposition under Iowa Code Chapter 144C.

"Documentation" means the provision of sufficient information concerning the action taken that a reasonable person reviewing the information would be able to understand:

- ◆ What behavior or incident prompted the need for action,
- ◆ What response was provided, and
- ◆ How the response was appropriate to the behavior or incident.

“Facility” means a resource center as defined in [Iowa Code section 222.1](#), a state mental health institute as defined in Iowa Code section 226.1, and the unit for civil commitment of sexually violent predators as defined in Iowa Code section 226.1(c).

“Health care” means the same as defined in [Iowa Code section 144B.1\(3\)](#).

“Health care decision” means the same as defined in [Iowa Code section 144B.1\(4\)](#).

“Life sustaining procedure” means the same as defined in [Iowa Code section 144A.2\(8\)](#).

“Life sustaining procedures declaration” means the same as defined in [Iowa Code section 144A.3](#).

“Resuscitation” means the same as defined in [Iowa Code section 144A.2\(12\)](#).

“Terminal condition” means, as defined in [Iowa Code section 144A.2\(13\)](#).

General Principles on Advance Directives

Facility written policies and procedures governing advanced directives shall assure that:

- ◆ Adult individuals shall be informed of and supported in their right to make decisions regarding their health care.
- ◆ Adult individuals admitted shall be informed of and supported in their right to execute or not execute an advance directive.
- ◆ Treatment is not provisioned on whether or not the individual has or has not executed an advance directive.
- ◆ The individual’s wishes expressed through an advance directive are followed.

Right to Make Decisions

Facility written policies and procedures shall assure an individual’s rights under state and federal laws to make decisions concerning medical care, including the right to accept or refuse medical or surgical treatment and the right to formulate advance directives are complied with.

Admission Procedure on Advance Directives

Facility written policies and procedures governing admissions shall assure that upon admission, each adult individual:

- ◆ Shall be informed in writing of the individual's right to:
 - Make decisions regarding the individual's medical care, and
 - Accept or refuse offered treatment, unless:
 - The treatment has been ordered by the court, or
 - The treatment is needed to provide immediate protection to the individual's health or safety or the safety of others.
- ◆ Shall be provided written information concerning the individual's right to execute an advance directive as provided for in the Code of Iowa.
- ◆ Shall be asked if the individual has an advance directive currently in place and if so, shall be asked to provide a copy.

If the individual is not competent to enter into or provide information on the existence of an advance directive upon admission, information concerning advance directives may be given to the individual's family, family contact, guardian, or legal representative. At any time during the stay when the individual regains competence, the information shall be provided to the individual.

Social Services

Facility written policies and procedures governing social services shall assure that:

- ◆ Within five business days of an individual's admission, a social services employee shall meet with the individual to:
 - Clarify with the individual, the individual's right to make decisions regarding medical care, including the right to accept or refuse offered treatment unless:
 - The treatment has been ordered by the court, or
 - The treatment is needed to provide immediate protection to the individual's health or safety or the safety of others.
 - Confirm whether or not the individual has an advance directive in effect, and
 - Provide the individual with any additional information requested about the right to implement an advance directive.

- ◆ If the individual indicates having an advance directive at admission or during the interview but the facility has not received a copy, a copy shall be requested.
- ◆ The individual shall be informed that the facility cannot comply with the advance directive until a copy is received.
- ◆ If the individual wants the facility to comply with the advance directive, then the employee shall work with the individual to obtain a copy.
- ◆ If the individual does not have an advance directive and wants to make one, the employee shall refer the individual to the appropriate community resources for the development of the advance directive.
- ◆ The individual understands that treatment at the facility will not be affected and is not contingent upon whether or not the individual has an advance directive.
- ◆ The issue of advance directives shall be reviewed at least annually with any individual at the facility on a long-term basis.

Declaration on Life-Sustaining Procedures

Facility written policies and procedures shall assure that when an individual provides the attending physician with a declaration relating to life-sustaining procedures as provided in [Iowa Code section 144A.3](#), the facility and its employees shall:

- ◆ Assume that the declaration, in the absence of any information to or actual notice to the contrary, is valid.
- ◆ Assure that as long as the individual is able to make decisions regarding the use of life-sustaining procedures, the individual shall be able to do so.
- ◆ Assure that the declaration shall govern the decisions regarding the provision of life-sustaining procedures when the individual:
 - Has been determined to have a terminal condition, and
 - Is not able to make decisions regarding the use of life-sustaining procedures.

Terminal Condition

Facility written policies and procedures shall assure that, when a physician determines the individual to have a terminal condition:

- ◆ The determination is confirmed by another physician, and
- ◆ The determination is documented in the individual's facility record.

Alternative Procedure for Declaration

Facility written policies and procedures shall assure that when an individual does not have a declaration under [Iowa Code section 144A.3](#) and the individual is comatose or incompetent or otherwise physically or mentally incapable of communication and has a terminal condition:

- ◆ The family (unless the individual has expressly stated that family is not to be contacted), guardian, or other legal representative shall be informed of the procedure under [Iowa Code section 144A.7](#).
- ◆ The facility's attending physician shall offer to consult with the following, in the following order, if reasonably available:
 - An attorney in fact who has been designated to make health care decisions for the individual;
 - An individual's guardian, providing court approval is obtained;
 - An individual's spouse;
 - An adult child of the individual, or if there is more than one adult child, a majority of the adult children;
 - A parent of the individual or parents;
 - An adult sibling.
- ◆ A decision by the appropriate decision maker, guided by the express or implied intentions of the individual, may be made to withhold life-sustaining procedures based on the physician's recommendations.
- ◆ The consultation and decision process shall be witnessed by an adult person other than the physician, the person for whom the declaration is being made, or the decision maker.
- ◆ The consultation and decision shall be documented in the individual's facility record.

Absence of Declaration

Facility policies and procedures shall assure that in the absence of a valid declaration or a decision made under the alternative procedure, life-sustaining procedures shall be provided.

Out-Of-Hospital Do-Not-Resuscitate Orders

Facility written policies and procedures shall assure that when an out-of-hospital do-not-resuscitate order is received for an individual being admitted or transferred:

- ◆ The order is written on the form required by the Iowa Department of Public Health. This form is available at www.idph.state.ia.us/ems.
- ◆ The order shall be implemented if the facility believes the order to be valid.
- ◆ Necessary and appropriate resuscitation shall be provided if the facility is uncertain whether the order is valid or applicable.
- ◆ An order shall not apply when the individual is in need of emergency medical services outside the scope of the individual's terminal condition.
- ◆ In carrying out an order, appropriate comfort, care, and pain relief shall be provided.
- ◆ The order shall be revoked if at any time that the individual, or a person authorized to act on behalf of the individual as designated on the out-of-hospital do-not-resuscitate order, is able to communicate to the facility in any manner that the order is revoked.
- ◆ The compliance or noncompliance with the order shall be documented in the individual's facility record, including the reasons for not complying as follows:
 - If the order was revoked, then evidence the order was revoked shall be documented in the individual's facility record.
 - If the facility is uncertain whether the order is valid or applicable, then the uncertainty regarding the validity or applicability of the order shall be documented in the individual's facility record.

Durable Power of Attorney for Health Care Decisions

Facility written policies and procedures shall assure that:

- ◆ When an individual provides the facility with a durable power of attorney for health care, as provided in [Iowa Code section 144B](#), the facility and its employees shall:
 - Assume that, in the absence of actual knowledge to the contrary, the durable power of attorney is valid.
 - Assure that as long as the individual is able to make health care decisions, the individual shall be able to do so.
 - Assure that the attorney in fact shall be responsible for the health care decisions when:
 - The individual is not able to make decisions regarding health care decisions, in the judgment of the attending physician, unless:
 - A district court setting in equity has found that the attorney in fact is acting in a manner contrary to the individual's wishes.
- NOTE: The attending physician's rationale for the determination shall be supported by documentation in the individual's facility record.
- ◆ The attorney in fact's decisions regarding health care of the individual shall have priority over any other person, including a guardian appointed under Iowa Code Chapter 633.

An attending physician may decline to withdraw or withhold healthcare necessary to keep the individual alive despite a contrary health care decision by the attorney in fact. Any decision to not follow the attorney in fact's decision regarding health care shall be supported by documentation in the individual's facility record.

If the attorney in fact authorizes the withholding of life-sustaining treatment and the health care provider believes this is consistent with the principal's wishes, the provider shall allow the individual an opportunity to object.

- ◆ The individual shall be presumed able to make a decision if at any time, in the judgment of the attending physician:
 - The individual is capable of making health care decisions. or
 - The individual objects to a decision to withhold or withdraw health care.

The basis for the decision shall be supported by documentation in the individual's facility record.

- ◆ The attorney in fact, unless limited by the durable power of attorney, shall be given the same right to access and to review the individual's facility record as the individual has and the attorney in fact may consent to the disclosure of the records when acting pursuant to the durable power of attorney.
- ◆ An employee of the facility shall not be a witness to or appointed as attorney in fact for a durable power of attorney to be applied to health care decisions made by any facility employee.

Revocation of an Advanced Directive

Facility written policies and procedures governing revocation of an advanced directive shall assure that:

- ◆ An individual who has an advance directive in place may revoke the advance directive at any time and in any manner by which the individual is able to communicate.
- ◆ Revocation shall be effective only when the individual makes the revocation communication the physician or to another person who communicates the revocation to the physician.
- ◆ The physician shall document the revocation in the individual's facility record. Any copies of the advance directive shall be:
 - Marked "revoked,"
 - Removed from the individual's facility record, and
 - Maintained in a separate file.

Declaration of Final Disposition

Facility written policies and procedures governing a final disposition declaration shall assure that:

- ◆ When an individual provides the facility with a final disposition declaration as provided in Iowa Code Chapter 144C, the facility and its employees shall:
 - Assume that the final disposition declaration is valid in the absence of actual knowledge to the contrary.
 - Upon the death of the individual, notify the designee or an alternate designee of the death and follow the wishes of the designee or alternate designee in the disposition of the decedent's body.

- ◆ The designee shall have access to information from the decedent's facility record necessary to carry out the responsibilities of the decedent's declaration.
- ◆ An employee of the facility shall not be a witness to or be appointed as a designee.

Revocation of Final Disposition Declaration

Facility written policies and procedures shall assure that a declaration shall be complied with unless the declarant has provided a written statement, signed by the declarant, that the declaration is revoked.

Complaints

Facility policies and procedures shall assure that if an individual has a complaint about the facility's advance directive policies or their implementation, the individual shall be informed of the right to file a complaint with the Iowa Department of Inspection and Appeals.

Community Education on Advance Directives

Facility policies and procedures shall assure that education on advance directives is provided and documented. Education shall be provided through written materials made available to individuals, families, or other interested community persons. Education shall provide information on:

- ◆ An individual's rights to make decisions regarding medical care and final disposition of the individual's remains,
- ◆ How the Code of Iowa defines advance directives,
- ◆ How advance directives are designed to enhance an individual's control over medical treatment and decisions regarding disposition of the individual's remains, and
- ◆ The process for formulating an advance directive.

Employee Training on Advance Directives

Facility written policies and procedures shall assure that all employees responsible for providing information about or implementing advanced directives are trained on:

- ◆ An adult individual's right to make decisions regarding the health care;
- ◆ An adult individual's right to make decisions regarding the disposition of the individual's remains and the ceremonies planned;
- ◆ Supporting an individual in those decisions.
- ◆ The types of advance directives available in Iowa,
- ◆ The processes for developing advance directives,
- ◆ The process for compliance with advance directives,
- ◆ The process for revoking an advance directive, and
- ◆ Documentation of actions taken in relationship to advance directives.

Policy on Medicaid False Claims

A significant part of the cost of services for individuals served by the resource centers and mental health institutes is paid through the Medicaid Program. The Department has an obligation to assure that all claims filed with Medicaid are valid. False claims can result in fiscal sanctions and loss of Medicaid funding.

Legal Basis for Medicaid False Claims

Public Law 109-171, Deficit Reduction Act of 2005, Sec. 6032 governs policy on the Medicaid false claims.

General Principles on Medicaid False Claims

It is the policy of the Department that all claims for payment made to the Medicaid program shall be only for services authorized for payment that are actually rendered. Each facility that is authorized to file claims with Medicaid shall have policies and procedures in place that monitor the claims process and assure that only legitimate claims are filed.

The Department does not condone and will not tolerate the filing of fraudulent claims of any nature. All claims for payment submitted for payment to the Medicaid Program shall be appropriate and legal.

Employees, contractors, and subcontractors shall be aware of this policy and the requirement to report allegations of false claims or misrepresentation. All allegations of false claims or misrepresentation shall be immediately and thoroughly investigated.

Management is responsible for monitoring the claims process to assure that fraudulent claims shall not be submitted. Claim billing procedures are regularly monitored and reviewed to assure that all billings shall be legal.

When improper claims, false claims, or misrepresentations occur, immediate action shall be taken to correct the improper claims and to implement necessary system corrections to prevent future improper claims.

Detecting and Preventing Fraud, Waste, and Abuse

The mental health institutes and resource centers shall have policies and procedures in place to assure that:

- ◆ Employees, contractors, and subcontractors shall be prohibited from knowingly making a false statement or misrepresentations of material facts or knowingly and deliberately failing to disclose material facts in a claim for Medicaid payment for services or merchandise rendered or purportedly rendered.
- ◆ All employees, contractors, and subcontractors shall be informed of the laws pertaining to the filing of Medicaid claims and this policy.
- ◆ Facility fiscal management policies and procedures shall provide for checks and balances to detect fraud, misrepresentation, and misapplication of Medicaid claim billing procedures.
- ◆ All employees, contractors, and subcontractors shall be required to report to management any suspicion or allegation of false Medicaid claims or misrepresentation without fear of reprisal and shall be provided with the whistle blower protections in federal and state laws.
- ◆ The policies and procedures in this chapter shall provide a guide for the filing of payment claims to any other state, county, or federal agency.

Reporting Allegations of Fraud or Misrepresentation

Mental health institute and resource center policies and procedures shall assure that:

- ◆ Employees, contractors, and subcontractors shall be required to immediately report any knowledge, suspicion, or awareness of an alleged Medicaid false claim or misrepresentation to the superintendent or the superintendent's designee.
- ◆ The superintendent or the superintendent's designee shall immediately report the allegation to the Department's deputy director and to the administrator of the Division of Fiscal Management.
- ◆ If an employee, contractor, or subcontractor reasonably believes that a Medicaid false claim or misrepresentation has occurred, the employee, contractor, or subcontractor shall have the right to report any knowledge, suspicion, or awareness of a Medicaid false claim or misrepresentation to a member or staff of the General Assembly, another public official, or a law enforcement agency.
- ◆ The employee, contractor, or subcontractor may make the report without informing the Department of that report unless the employee, contractor, or subcontractor represents the disclosure as the official position of the Department.

Division Actions

When any allegation of Medicaid fraud or misrepresentation is reported, the Department's deputy director shall assure that:

- ◆ Immediate notice is given to:
 - The Department director,
 - The administrator of the Division of Fiscal Management, and
 - The administrator of the Iowa Medicaid Enterprise.
- ◆ A division of field operations employee is assigned to assure that:
 - Facility staff make a fair and impartial investigation of the allegation, and
 - Proper corrective actions are developed and implemented.

Case and Medical Records Review

Mental health institute and resource center policies and procedures shall assure that:

- ◆ “Record” is defined as any part of the facility’s case, medical, or other records for an individual that is used to record the services, activities, or treatments funded in whole or in part through the Medicaid program.
- ◆ A proper case and medical record system shall be in place to collect and document the information required on services provided to support all claims for Medicaid payments.
- ◆ The superintendent or the superintendent’s designee shall:
 - Select a random monthly sample equal to of 5% of all individuals receiving current active services funded in whole or in part by Medicaid.
 - Direct and supervise the review of the case and medical records of the sample to determine if the Medicaid-required documentation of services in the record supports the Medicaid claim filed for that individual.
 - Select an employee to conduct the review.
 - Assure that all reviews are completed by the 15th business day of each month.
- ◆ The review shall be conducted by an employee who:
 - Has been trained on what documentation is required, and
 - Has not been responsible for providing the documentation being reviewed.
- ◆ The findings of the review shall be documented in writing indicating:
 - The number of records reviewed;
 - The facility unique identifier number of the record reviewed;
 - The date of the review;
 - The specific program areas reviewed;
 - The employee responsible for documenting the service;
 - Whether or not the review found the record compliant; and
 - If the record was not compliant, a detailed explanation of the noncompliance, including an evaluation as to whether the noncompliance may have been the result of a fraudulent action.

- ◆ The superintendent or the superintendent's designee shall:
 - Receive the report of the review as soon as each review is completed.
 - Prepare a report of the findings of each month's reviews, and
 - Submit the report to the deputy director for field operations by the fifth business day of the following month.

Corrective Action on Case and Medical Record Review

Mental health institute and resource center policies and procedures shall assure that:

- ◆ If a noncompliant record is found, the superintendent or the superintendent's designee shall implement appropriate corrective action with the Medicaid program.
- ◆ If a noncompliant record is found that may be the result of fraudulent actions, when the superintendent or the superintendent's designee becomes aware of the noncompliance, the superintendent or designee shall report that finding to the deputy director for field operations within two hours.
- ◆ Within five business days of a report of noncompliance, the superintendent, or the superintendent's designee shall develop a corrective action plan to correct the deficiency in that individual case. The plan shall address whether personnel action is or is not required. In either case, information shall be included to support that decision.
- ◆ For any program area in which a deficiency is found, a 25% sample shall be pulled of the records in that program area and reviewed.
- ◆ If any additional deficiencies are found, the superintendent or the superintendent's designee shall contact the deputy director for field operations to develop a plan for further review and corrective action.

Fiscal Management Review

Mental health institute and resource center policies and procedures shall assure that:

- ◆ An accounting system shall be in place that shall provide accurate and sufficient detail to track all claims filed for Medicaid payment and receipt of Medicaid payments.
- ◆ Financial management practices and procedures shall provide for a complete and thorough system of checks and balances to reduce or eliminate opportunities for the filing of fraudulent claims or making misrepresentations in Medicaid payment claims.

At the resource centers, these practices and procedures shall include but are not limited to the following:

- ◆ Before submittal, all Medicaid billing claims prepared shall be reviewed to assure that the census data on client days and the claimed amount are correct for each individual for whom a claim is submitted. This review shall be conducted by:
 - At least one employee of the resource center's business office, and
 - At least one other employee other than the employee who prepared the claim.
- ◆ The business manager or the business manager's designee shall authorize the claim by signing the claim before submittal. The designee shall be an employee other than the employees who initially prepared and reviewed the billing claim.
- ◆ A final reconciliation of all claims shall be done when payment for the claim is received. The reconciliation shall be done by at least two employees from the resource center's business office and shall review the payment received to determine that:
 - The amount received is correct,
 - The number of patient days paid is correct, and
 - The amount deducted for client participation is correct.

At the mental health institutes, these practices and procedures shall include but not be limited to the following:

- ◆ Before submittal, all Medicaid billing claims shall:
 - Have the eligibility of the individual confirmed by calling the Eligibility Verification System (ELVS) line at 1-800-338-7752 or local 515-323-9639.
 - Have the number of days certified checked against the written certification.
 - Have the number of days to bill checked against the daily or weekly census reports. At least two separate employees shall be involved in independently checking the number of days billed on a claim.
 - Have any ancillary services included in the claim checked for accuracy.
- ◆ When payment for the claim is received, a final reconciliation of all claims shall be done by at least two employees from the mental health institute's business office. The employees shall review the payment received to determine that:
 - The amount received is correct, and
 - The number of patient days paid is correct.

All facilities shall select a random monthly sample equal to 5% of the claims filed for payment in the previous month for detailed review.

- ◆ The sample claims shall be reviewed to determine:
 - If the individual for whom a claim was filed was Medicaid-eligible,
 - If the claim was for the proper amount,
 - If the claim was properly filed, and
 - If the claim may have been fraudulently filed.
- ◆ The review shall be under the direction and supervision of the superintendent or the superintendent's designee who shall:
 - Select the sample of claims to be reviewed,
 - Select the employee to do the review, and
 - Assure that all reviews are completed by the 15th business day of each month.

- ◆ The review shall be conducted by an employee who:
 - Has been trained on the claim requirements, and
 - Has not been responsible for filing the claim or receipt of the payment being reviewed.
- ◆ The findings of the claims review shall be documented in writing indicating:
 - The number of records reviewed;
 - The facility unique identifier number of the claim reviewed;
 - The date of the review;
 - The employee responsible for documenting the filing of the claim;
 - Whether or not the review found the claim compliant; and
 - If the claim was not compliant, a detailed explanation of the noncompliance including an evaluation as to whether or not the non-compliant claim may have been as the result of fraudulent action.
- ◆ The superintendent or the superintendent's designee shall:
 - Receive the report of the review as soon as each review is completed,
 - Prepare a report of the findings of each month's reviews, and
 - Submit the report to the deputy director for field operations by the fifth business day of the following month.

Corrective Action on Fiscal Review

Mental health institute and resource center policies and procedures shall assure that:

- ◆ If a noncompliant claim is found, the superintendent or the superintendent's designee shall implement appropriate corrective action with the Medicaid program.
- ◆ If a noncompliant claim is found that may be the result of fraudulent actions, when the superintendent or the superintendent's designee becomes aware of the noncompliance, the superintendent or designee shall report that finding to the deputy director for field operations within two hours.
- ◆ Within five business days of a report of noncompliance, the superintendent or the superintendent's designee shall develop a corrective action plan to correct the deficiency in the claim. The plan shall address whether personnel action is or is not required. In either case, information shall be included to support that decision.

- ◆ For any month in which a deficiency is found, a 25% sample shall be pulled of the claims for the month and reviewed.
- ◆ If any additional deficiencies are found, the superintendent or the superintendent's designee shall contact the deputy director for field operations to develop a plan for further review and corrective action.
- ◆ An audit of Medicaid claims shall be performed by the state auditor no less frequently than annually. A superintendent or the deputy director for field operations may request the state auditor to perform an audit at any time.
- ◆ All employees, contractors, or subcontractors shall provide all information requested and cooperate fully with any review or audit.

Personnel Practices for Medicaid False Claim

Mental health institute and resource center policies and procedures shall assure that:

- ◆ Before beginning employment or changing jobs within the facility, all employees, contractors, and subcontractors shall be checked to determine whether or not they are on the federal Excluded Parties List (EPL).
www.epls.gov.
- ◆ The findings shall be documented in the individual's employment record in a manner that permits the information to be available individually and in aggregate form.
- ◆ Before beginning employment, all employees, contractors, and subcontractors shall be notified of the laws governing Medicaid fraud including:
 - The requirements of the Federal False Claims Act established in Title 31, Chapter 38, of the United States Code;
 - The administrative remedies for submitting false claims and statements established in Title 31, Chapter 38, of the United States Code;
 - The civil and criminal penalties for knowingly submitting false claims or making false statements established in Title 31, Chapter 38, of the United States Code;
 - The whistle-blower protections provided under federal and state laws; and the mental health institute's or resource center's policies and procedures for detecting and preventing fraud, waste, and abuse.

- ◆ All employees, contractors, and subcontractors shall be required to sign form 470-4857, *Department of Human Services Briefing Sheet*, to signify that they have received notification of the laws governing Medicaid fraud. The signed form shall be retained in the facility personnel files.
- ◆ Any employee, contractor, or subcontractor who makes an allegation of Medicaid false claim fraud or misrepresentation in good faith shall be offered protection from retaliation or harm as provided in Iowa Code section 70A.28 and Title 31, subsection 3730(h), United States Code. (See [Whistle Blower Protections](#).)
- ◆ Any employee, contractor, or subcontractor who has been found to have submitted a false Medicaid claim or made false representation relating to a Medicaid claim shall be subject to sanctions, up to and including dismissal or termination of contract.
- ◆ Any employee, contractor, or subcontractor who fails to report to the superintendent or the superintendent's designee knowledge, suspicion, or awareness of any allegation of false Medicaid claim or misrepresentation shall be subject to sanctions, up to and including dismissal or termination of contract.
- ◆ All decisions on type and severity of disciplinary actions taken against any employee shall be done timely and shall be based on an evaluation of:
 - The type and severity of the incident based on the evidence contained in the report of the investigation,
 - Prior personnel actions taken with the employee, and
 - Other components of just cause.

Performance Improvement on Medicaid False Claim

Mental health institute and resource center policies and procedures shall assure that the facility's management employees have in place quality management practices to:

- ◆ Monitor the implementation and operation of the Medicaid claim process;
- ◆ Review the findings of the review processes for records, filed claims, and payment receipts to assure that the system is implemented as required in this policy;

- ◆ Review the combined findings of the separate reviews to identify broader systemic problems or issues needing corrective action, whether actual or potential;
- ◆ Develop corrective action plans to address identified problems or issues; and
- ◆ Monitor the completion and implementation of corrective action plans.

Employee, Contractor and Subcontractor Training

Mental health institute and resource center policies and procedures shall assure that:

- ◆ All employees, contractors, and subcontractors shall be trained in general knowledge about the Medicaid claim billing process including:
 - The services provided by the facility that are eligible for payment through Medicaid;
 - The review process to be used to monitor the accuracy of supporting documentation, claims filed, and payments received;
 - The process for reporting any suspected Medicaid false claims or misrepresentation; and
 - Protections provided by the state and federal laws covering whistle blowers.
- ◆ All employees, contractors, and subcontractors responsible for documenting services provided and for which reimbursement is sought shall be trained in proper documentation.
- ◆ All employees, contractors, and subcontractors responsible for preparing and filing claims for payment shall be trained in the proper preparation and filing of claims.
- ◆ All employees, contractors, and subcontractors responsible for monitoring the claims process shall be trained in the proper procedures for monitoring Medicaid claims.
- ◆ All training shall be regularly documented in a manner that permits the information to be available individually and in aggregate form.
- ◆ Training curriculum shall be updated regularly to reflect current Medicaid claims policies and procedures, facility policies and procedures, and changes in services eligible for Medicaid payment.
- ◆ Training shall be implemented in a timely manner.

Laws Relating to Detecting and Preventing Fraud, Waste and Abuse

Federal laws relating to detecting and preventing Medicaid fraud, waste, and abuse are found in Title 31 of the United States Code, as follows:

- ◆ Sections 3729-3733 are known as the False Claims Act and provide for significant damages against persons who:
 - Knowingly present false or fraudulent claims to the U.S. government for payment or approval, or
 - Conspire to defraud the government.

The damages assessed can range from \$5,000 to \$10,000 plus three times the amount of damages sustained by the government. A copy of this law can be found at:

http://www4.law.cornell.edu/uscode/html/uscode31/usc_sec_31_00003729----000-.html

- ◆ Sections 3801 to 3812 authorize federal administrative authorities to assess a civil money penalty of \$5,000 per claim plus an assessment of twice the amount of the claim against persons who submit false, fictitious, or fraudulent claims. A copy of this law can be found at:
http://www4.law.cornell.edu/uscode/search/display.html?terms=3801&url=/uscode/html/uscode31/usc_sec_31_00003801----000-.html

State law relating to detecting and preventing Medicaid fraud, waste, and abuse includes Iowa Code Section 249A.7, which provides that:

“A person who obtains assistance or payments for medical assistance under this chapter by knowingly making or causing to be made, a false statement or a misrepresentation of a material fact or by knowingly failing to disclose a material fact required of an applicant for aid under the provisions of this chapter and a person who knowingly makes or causes to be made, a false statement or a misrepresentation of a material fact or knowingly fails to disclose a material fact, concerning the applicant’s eligibility for aid under this chapter commits a fraudulent practice.”

A copy of this law can be found at: <http://coolice.legis.state.ia.us/Cool-ICE/default.asp?category=billinfo&service=IowaCode&input=249A.7>

Whistle-Blower Protections

Federal laws relating to whistle-blower protection are found in Title 31 of the United States Code, section 3730(h), which specifies the federal protections provided to an employee who:

- ◆ Lawfully participates in a federal false claims act case; and
- ◆ Is discharged, demoted, suspended, threatened, harassed, or otherwise discriminated against.

Employees have the right to pursue a cause of action in federal district court for reinstatement, back pay, special damages and costs and attorney fees.

A copy of this law can be found at:

http://www4.law.cornell.edu/uscode/search/display.html?terms=3730&url=/uscode/html/uscode31/usc_sec_31_00003730---000-.html

State law relating to detecting and preventing Medicaid fraud, waste, and abuse includes Iowa Code Section 70A.28, which provides protections to state of Iowa employees who disclose information the employee reasonably believes is evidence of "a violation of law or rule, mismanagement, a gross abuse of funds, an abuse of authority or a substantial and specific danger to public health or safety."

Protected disclosures can be made to a member or employee of the state legislature, the office of the Citizens' Aide/Ombudsman, a public official, or a law enforcement agency. This law is commonly known as the State's "whistle blower" law. A copy of this law can be found at:

<http://coolice.legis.state.ia.us/Cool-ICE/default.asp?category=billinfo&service=iowaCode&input=70A.28>

Policy for Confidentiality of Individual's Information

State and federal laws provide for the protection of the confidentiality of information concerning individuals served by the Department's facilities. Confidentiality applies to:

- ◆ The records maintain on each individual served,
- ◆ The general records developed in the operation of the facility containing information about an individual, and
- ◆ The personal knowledge an employee has about any individual served.

Protecting confidential information is paramount to protecting the individual's rights. Confidentiality is also important to providing an atmosphere where individuals feel free to participate in the treatment process without the threat of having personal information made public.

Legal Basis for Confidentiality

Iowa Code section 217.30 provides the basis for the confidentiality guidelines for the Department of Human Services.

Iowa Code section 218.22 provides for the confidentiality of Department facility records.

Iowa Code Chapter 228 provides for the confidentiality of mental health and psychological information.

Iowa Code sections 229.24 and 229.25 provides for the confidentiality of mental health hospitalization and hospital records.

Administrative rules at 441 IAC 82.1(c) provide for the confidentiality of the records at the resource centers.

The Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 (HIPAA), governs the release of medical record information.

General Principles of Confidentiality

The facility's written policies and procedures shall assure that:

- ◆ The confidentiality of all information contained in the files of the facility relating to a specific individual shall be protected from unauthorized use, dissemination, or release.
- ◆ The individual shall have the right to access the confidential information that the individual provided to the facility or the information generated by the facility within a reasonable period of time.
- ◆ Confidential information provided to the facility by another agency, service provider, or individual shall not be released. Any person, agency, service provider, or individual seeking the information shall be directed to the provider of that information.
- ◆ The individual shall have the right to have the facility release confidential information that the individual provided to the facility or the information generated by the facility to any person or agency the individual desires, by providing proper consent.
- ◆ Confidential information shall be released only based on the informed consent of the individual or the parent, guardian, other legal representative with the authority to give consent to release, or a proper legal authority for release of the information.
- ◆ The release of all medical information shall conform to the Portability and Accountability Act of 1996 (HIPAA), Public Law 104-191.
- ◆ When there is question about the legal release of confidential information, the information shall not be released and the question shall be directed to the office of the deputy director for field operations.
- ◆ There shall be internal procedures and practices for recording and storing confidential information that assure that only authorized employees or others have access to the confidential information.
- ◆ An employee shall be authorized to access confidential information only to the extent that the employee requires the information to perform the employee's assigned job duties.
- ◆ An employee who releases confidential information without the proper consent or legal authority, or who accesses confidential information without proper consent or legal authority for personal or other purposes, shall be subject to discipline up to and including discharge.

General Department Policy

Facility written policy and procedures shall assure compliance with the Department's policy on confidentiality found in [Employee's Manual Chapter 1-C](#).

Policy on Individual's Personal Accounts

Individuals served by the Department's facilities frequently have personal assets or income managed by the facility.

Each facility has a fiduciary responsibility to assure the individual that the funds in the facility's care are kept safe and are used only as authorized by the individual. Each individual's funds shall be accounted for separately from any other individual.

When an individual is no longer being served by the facility, all funds and assets belonging to the individual shall be returned to the individual.

Legal Basis for Personal Accounts

Iowa Code sections 226.43 through 226.46 provides guidelines for managing the personal funds of individuals admitted or committed to a mental health institute or the civil commitment unit for sexual offenders.

Iowa Code sections 222.84 through 222.87 provide guidelines for managing the personal funds of individuals admitted or committed to a resource center.

Iowa Code section 233A.17 provides guidelines for managing the personal funds of an individual placed at the state training school.

Iowa Code sections 233B.6 and 233B.17 provide guidelines for managing the personal funds of an individual placed at the state juvenile home.

Definition of Personal Funds

"Personal funds" means:

- ◆ Any funds the individual brings along when admitted to the facility, and
- ◆ Any funds the individual comes into possession of while at the facility, including but not limited to, Social Security payments, funds earned from work at the facility, or gifts received.

The definition of "personal funds" does not include funds received by the facility intended to pay for all or part of the cost of care of the individual, including but not limited to Medicare, Medicaid, state appropriation, county payments, or trust funds.

General Principles on Personal Accounts

Facility written policies and procedures shall assure that all personal funds belonging to an individual residing at a facility that come into the possession of the facility shall be:

- ◆ Safeguarded and individually tracked.
- ◆ Deposited in an account fund that is separate from any other facility account.
- ◆ Reasonably accessible for the personal use of the individual.
- ◆ Cared for in compliance with the law and rules governing the use and management of funds for persons receiving Medicaid, Medicare, or an individual's social security funds where the facility serves as the individual's representative payee.
- ◆ Returned to the individual or a person legally responsible for the individual's funds when the individual leaves the facility unless state or federal laws or rules require otherwise.

Personal Deposit Fund

Facility written policies and procedures shall assure that:

- ◆ A fund identified as the "patient's personal deposit fund" shall be established in the business office that shall be:
 - Used for the deposit of the funds belonging to an individual, including social security benefits, which come into the possession of the superintendent or administrator or any employee;
 - Maintained as a separate identifiable account that shall not be co-mingled with any other facility account; and
 - Operated in such a manner that each individual's deposited funds are separately tracked and identifiable.
- ◆ The funds in the account shall be deposited in a commercial account at a state or federally chartered bank insured by the Federal Deposit Insurance Corporation.

Bank Account Interest

Facility written policies and procedures shall assure that:

- ◆ When the balance in the bank account exceeds the average monthly withdrawal, the excess funds may be deposited in an interest-bearing account.
- ◆ All interest earned by an interest-bearing bank account shall be credited to the individuals who have money in the account on a pro-rated basis based on the amount of money each individual has in the account at the time the interest is paid.

Guardian of the Individual's Property

Facility written policies and procedures shall assure that:

- ◆ If an individual who has funds in the personal deposit fund has a court-appointed guardian of the property of the individual the guardian shall have then the right to demand and receive the funds

EXCEPTION: If the facility has been appointed the representative payee for the individual's social security payments, the rules governing the responsibilities of the representative payee shall be followed.

- ◆ When a guardian makes such a request, the facility shall require the guardian to provide evidence of the court appointment.
- ◆ If the facility has any concern about the legality of the appointment, the office of the deputy director shall be contacted before the disbursement is made.

Representative Payee

Facility written policies and procedures shall assure that:

- ◆ The facility may serve as a representative payee for an individual's social security benefits when the individual's length of stay will be long enough to make establishing the representative payee practical.
- ◆ When the facility is appointed as a representative payee, the social security funds received are cared for, managed, and tracked in accordance with the requirements of the Social Security Administration for representative payees.
- ◆ When the facility ceases being the individual's representative payee, all funds in the individual's account received as representative payee shall be returned to the Social Security Administration.

Payment for Care

Facility written policies and procedures shall assure that:

- ◆ An individual who is receiving Medicaid shall be responsible for any payment and may use the personal account to pay for the individual's cost of care at the facility in accordance with Medicaid laws and rules.
- ◆ An individual who is not receiving Medicaid shall be responsible for paying a portion of the cost of the individual's care at the facility if:
 - There is no reasonable expectation that the individual will have a need for the funds to meet community placement costs within the next three months;
 - The individual's account balance is in excess of \$200 at the end of any month; and
 - The individual either:
 - Has a county of legal settlement and the county requests that the balance be used to reduce the county's liability, or
 - Has no county of legal settlement and the facility receives approval of the deputy director to use the excess balance to reduce the state's liability.

Individual's Access to Funds

Facility written policies and procedures shall assure that:

- ◆ Each individual shall be provided with the written rules governing the use of personal funds within the facility.
- ◆ The rules governing personal use of funds within the facility shall be based on a reasonable need of the facility to provide a safe therapeutic setting for providing treatment and to protect individuals from loss of their personal funds.
- ◆ Within the facility's rules for use of personal funds, each individual shall be provided reasonable and timely access to the individual's funds in the account for use as the individual wishes unless:
 - The individual's treatment team has an approved plan for assisting the individual in managing the individual's funds, or
 - The individual has a court appointed guardian of property and the guardian provides specific instructions for the expenditure of the individual's funds.