



# Iowa Department of Human Services

Terry E. Branstad  
Governor

Kim Reynolds  
Lt. Governor

Charles M. Palmer  
Director

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## GENERAL LETTER NO. 8-C-94

ISSUED BY: Bureau of Financial, Health and Work Supports  
Division of Adult, Children and Family Services

SUBJECT: Employees' Manual, Title 8, Chapter C, **NONFINANCIAL ELIGIBILITY**,  
pages 52, 112, and 132, revised.

### Summary

Chapter 8-C is revised to reflect the name change of intermediate care facilities for the mentally retarded (ICF/MR) to intermediate care facilities for persons with an intellectual disability (ICF/ID), as mandated by 2012 Iowa Acts, Senate File 2247.

### Effective Date

Immediately.

### Material Superseded

This material replaces the following page from Employees' Manual, Title 8, Chapter C:

<u>Page</u>	<u>Date</u>
52, 112, 132	December 4, 2009

### Additional Information

Refer questions about this general letter to your area income maintenance administrator.

### **Incapability of Expressing Intent**

**Legal reference:** 42 CFR 435.403, 441 IAC 75.10(249A)

A person is considered incapable of expressing intent if:

- ◆ The person has an IQ of 49 or less or has a mental age of 7 or less, or
- ◆ The person has been declared legally incompetent by a court, or
- ◆ Medical documentation from a physician, psychologist, or other person licensed by the state in the field of intellectual disability indicates the person is incapable of expressing intent.

1. Ms. V, a 76-year-old woman, comes to Iowa to enter a nursing facility. She intends to return to Wisconsin. She is not an Iowa resident.
2. Mr. C, age 24, was living in Los Angeles when he is involved in a car accident. He remains in a coma. Mr. C is moved to a hospital in Iowa to be close to his parents. Mr. C becomes an Iowa resident. His residency is where he is living, because he became incapable of expressing intent after age 21.
3. Mr. M, a 25-year-old living in an Iowa ICF-MR, was injured at age 15. The court issued an order that he was not competent and appointed a legal guardian. After placing Mr. M in an ICF-MR, his guardian moved to Florida. Mr. M is an Iowa resident because his entry into the living arrangement occurred while his guardian was a resident of Iowa.

### **State Placement**

**Legal reference:** 42 CFR 435.403, 441 IAC 75.10(249A)

“State placement” is arrangement by any state agency, including an agency under contract with the state for such purposes, for a person to be placed in an institution in another state.

Providing information to the person or acting on behalf of a person is **not** state placement. Examples of actions that are not considered state placement are:

- ◆ Providing information about the availability of services or medical benefits in another state.
- ◆ Assisting the person in locating an out-of-state institution.
- ◆ Approving Medicaid eligibility for a person in an out-of-state facility.

When a child is attending Job Corps, the Iowa Braille and Sight Saving School, or the Iowa School for the Deaf, consider the child to be in a public educational or vocational training institution and include the child in the eligible group if otherwise eligible.

A specified relative who is temporarily out of the home for training or education may be included in the eligible group, provided the specified relative was in the home before leaving to secure education or training.

### **Absence in a Medical Institution**

**Legal reference:** 441 IAC 75.53(4) "a"

Include in the eligible group a person who is temporarily absent from the home and in a medical institution. Assistance may be approved for a person who is confined to or living in a medical institution as long as the person:

- ◆ Is anticipated to be in a medical institution for less than a year, as verified by a physician's statement.
- ◆ Will be returning directly to the home from the medical institution.

When determining the 12-month period, the first full calendar month after the person enters the medical institution is considered "month one."

A "medical institution" is a facility that provides medical care, including nursing and convalescent care, in accordance with accepted standards as authorized by state law and as evidenced by the facility's license.

A medical institution may be public or private. Medical institutions include:

- ◆ Hospitals
- ◆ Nursing facilities
- ◆ Intermediate care facilities for persons with an intellectual disability
- ◆ Psychiatric medical institutions for children
- ◆ Psychiatric institutions
- ◆ State hospital schools
- ◆ Mental health institutions

### **Needy Specified Relative and Parent**

**Legal reference:** 441 IAC 75.58(1) "b"(2)

A needy specified relative who acts as the child's caretaker may be included in the eligible group when the parent is in the household but the parent is unable to act as the caretaker. The Medicaid case is still considered as a parental case, rather than a nonparental caretaker case.

"Unable to act as caretaker" means that the parent is physically or mentally incapable of caring for the child. There is no time limit on how long the needy specified relative who acts as a caretaker may be included in the eligible group. The parent could be permanently unable to act as caretaker (e.g., severe intellectual disability) or temporarily unable (e.g., hospitalized due to a car accident).

Ms. A and her child are on FMAP. Ms. A is in an auto accident and is hospitalized. She will be unable to care for her child until she has recovered. Ms. A's mother moves into the home to take care of her grandchild in the interim.

Even though Ms. A remains in the eligible group as an FMAP member, Ms. A's mother, if needy, may be added to the eligible group for as long as she acts as the child's caretaker.

### **Defining the Number of Eligible Groups in a Household**

**Legal reference:** 441 IAC 75.55(249A), 75.58(1)

After deciding who **must** be in the eligible group and who **may** be in the eligible group, there are additional considerations involved in determining the composition of each eligible group.

The unborn child is generally considered in determining household size. However, if the unborn child is the only child, the parents cannot establish their own eligibility based on the unborn child.

When a pregnant woman is establishing eligibility under MAC, the father of the unborn child must be a part of the eligible group if he is living with the pregnant woman.