

**HUMAN SERVICES DEPARTMENT[441]**

**Notice of Intended Action**

**Proposing rule making related to assessment levels for nursing facilities  
and providing an opportunity for public comment**

The Human Services Department hereby proposes to amend Chapter 36, “Facility Assessments,” and Chapter 81, “Nursing Facilities,” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is proposed under the authority provided in Iowa Code section 249A.4 and 2018 Iowa Acts, Senate File 2418.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code section 249A.4 and 2018 Iowa Acts, Senate File 2418.

*Purpose and Summary*

These proposed amendments change the assessment levels for nursing facilities effective July 1, 2019. The assessment level cap was removed during the 2018 Legislative Session by 2018 Iowa Acts, Senate File 2418. The Department, in collaboration with stakeholders, developed new assessment levels and requested an effective date of July 1, 2019.

*Fiscal Impact*

This rule making has a fiscal impact to the State of Iowa of \$100,000 annually or \$500,000 over five years. Assumptions for this fiscal impact include:

- Annual non-Medicare revenue: \$1,499,417,079
- Non-Medicare patient days: 7,016,276
- Estimates were based on changes expected for state fiscal year

(SFY) 2020 and not on current revenue levels.

A model was developed to estimate the impact of this change. Based on this model, it is estimated that annual assessment fee revenues will increase from \$32,726,360 under the current policy to \$58,570,397 under the proposed policy, an increase of \$25,844,037. These expenditures will be 100 percent state funds.

#### *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 March 5, 2019. Comments should be directed to:

Harry Rossander

Bureau of Policy Coordination

Department of Human Services  
Hoover State Office Building, Fifth Floor  
1305 East Walnut Street  
Des Moines, Iowa 50319-0114  
Email: [policyanalysis@dhs.state.ia.us](mailto:policyanalysis@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 actions are proposed:

ITEM 1. Amend subrule 36.6(2) as follows:

**36.6(2) Assessment level.** Effective July 1, 2012, the assessment level for each nursing facility shall be determined on an annual basis and shall be effective for the state fiscal year.

a. Effective July 1, ~~2015~~ 2019, nursing facilities with 46 or fewer licensed beds are required to pay a quality assurance assessment of ~~\$1.36~~ \$2.45 per non-Medicare patient day. Effective with assessment for the state fiscal year beginning July 1, 2012, the number of licensed beds on file with the department of inspections and appeals as of May 1 of each year shall be used to determine the assessment level for the following state fiscal year.

b. Effective July 1, ~~2015~~ 2019, nursing facilities designated as continuing care retirement centers (CCRCs) by the insurance division of the Iowa department of commerce are required to pay a quality assurance assessment of ~~\$1.36~~ \$2.45 per non-Medicare patient day. Effective with assessment for the state fiscal year beginning July 1, 2012, continuing care retirement center designations as of May 1 of each year shall be used to determine the assessment level for the following state fiscal year.

c. Effective July 1, ~~2015~~ 2019, nursing facilities with annual Iowa Medicaid patient days of ~~26,500~~ 21,000 or more are required to pay a quality assurance assessment of ~~\$1.36~~ \$2.45 per non-Medicare patient day. Effective with assessment for the state fiscal year beginning July 1, 2012, the annual number of Iowa Medicaid patient days reported in the most current cost report submitted to the Iowa Medicaid enterprise as of May 1 of each year shall be used to determine the assessment level for the following state fiscal year.

d. Effective July 1, ~~2015~~ 2019, all other nursing facilities are required to pay a quality assurance assessment of ~~\$7.13~~ \$12.75 per non-Medicare patient day.

ITEM 2. Amend paragraph **81.6(21)“b”** as follows:

b. *Quality assurance assessment rate add-on.* Effective with the implementation of the quality assurance assessment paid pursuant to 441—Chapter 36,

Division II, a quality assurance add-on of ~~\$10~~ \$15 per patient day shall be added to the Medicaid per diem reimbursement rate as otherwise calculated pursuant to this rule.



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

Name of Program Specialist Sally Oudekerk	Telephone Number 515-256-4643	Email Address soudeke@dhs.state.ia.us
--	----------------------------------	--

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

1. This rule package will change the assessment levels for nursing facilities effective July 1, 2019. The assessment level cap was removed during the 2018 legislative session, Senate File (SF) 2418. After working with stakeholders the new assessment levels developed as well as the effective date of July 1, 2019.

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

2018 Iowa Acts Senate File 2418 (SF2418)

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

Nursing facilities should be positively impacted with increased reimbursement.

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

If the Centers for Medicare and Medicaid Services (CMS) does not approve the change, it cannot be implemented.

5. What are the likely areas of public comment?

There are likely to be no comments as this rule change has been worked on by stakeholders.

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.)

These rules will not have an impact on private sector jobs in Iowa.



# Administrative Rule Fiscal Impact Statement

Date: 1/10/2019

**Agency:** Human Services

**IAC citation:** 441 IAC 36.6(2)

**Agency contact:** Sally Oudekerk

**Summary of the rule:**

Update nursing facility assurance fee pursuant to SF2418 removing of state imposed limit on amount of revenue to be assessed and with input from stakeholders.

*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:**

*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:**

Annual Non-Medicare revenue - \$1,499,417,079

Non-Medicare Resident Days – 7,016,276

Estimate were based on changes expected for SFY 2020 and not on current revenue levels.

**Describe how estimates were derived:**

A model was developed to estimate the impact of this change. Based on this model, it is estimated that assessment fee revenues will increase from \$32,726,360 under the current policy to \$58,570,397 under the proposed policy; an increase of \$25,844,037. This is 100% state funds and is expected to be spent as follows:

1. Appropriated assessment fee revenue is \$36,705,208. The \$32,726,360 in available estimated revenue is \$3,978,848 below the appropriated amount. A portion of the \$25.8 million increase is needed to cover this shortfall.
2. The increased assessment fees will also result in increased pass-through and add-on payments to nursing facilities. The estimated state share of this increase is \$13,385,248 (further detail is provided below). A portion of the \$25.8 million increase will fund these expenditures.
3. The remaining \$8,479,941 (\$25,844,037 - \$3,978,848 - \$13,385,248) is unappropriated. This will be available for nursing facility rate increases or for other purposes as determined by the Legislature and Governor.

**Pass-Through and Add-On Expenditure Estimates Based on Assessment Fee Model:**

Current: \$57,446,591 (total); \$22,473,106 (state share)

Proposed: \$91,662,458 (total); \$35,858,354 (state share)

Difference: \$34,215,867 (total); \$13,385,248 (state share)

Nursing facilities will pay an additional \$25,844,037 in fees, but receive \$34,215,867 in additional Medicaid

payments; resulting in a net gain to facilities of \$8,371,830.

**Estimated Impact to the State by Fiscal Year**

	<u>Year 1 (FY 2020)</u>	<u>Year 2 (FY 2021)</u>
<b>Revenue by each source:</b>		
General fund		
Federal funds	20,830,619.00	20,830,619.00
Other (specify):	25,844,037.00	25,844,037.00
<b>TOTAL REVENUE</b>	46,674,656.00	46,674,656.00
<b>Expenditures:</b>		
General fund		
Federal funds	20,830,619.00	20,830,619.00
Other (specify):	17,364,096.00	17,364,096.00
<b>TOTAL EXPENDITURES</b>	38,194,715.00	38,194,715.00
<b>NET IMPACT</b>	8,479,941.00	8,479,941.00

This rule is required by state law or federal mandate.

*Please identify the state or federal law:*

Identify provided change fiscal persons:

2018 Iowa Acts Senate File 2418 (SF2418)

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:*

Funding for the increases are included in the amounts to be remitted to the state from nursing facilities.

***Fiscal impact to persons affected by the rule:***

Additional total funds to nursing facilities are expected to be \$8,371,830

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

Additional total funds to non-state owned governmental nursing homes are expected to be \$666,555.

Agency representative preparing estimate: Jason Buls

Telephone number: 515-281-5764