

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed Emergency After Notice

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

These amendments revise Chapter 170 to reflect new federal Child Care and Development Block Grant (CCDBG) rules regarding child care assistance eligibility. The amendments make the following changes:

- Allow for 12-month certification instead of 6-month certification.
- Establish new exit eligibility criteria for families with income exceeding 145 percent of the Federal Poverty Level (FPL).
- Expand the period for job search from 1 month to 3 months for families who experience a temporary change in employment or education.
- Allow for assistance to continue for 12 months regardless of temporary changes.
- Provide that family assistance may only be canceled after a nontemporary change (after 3 month job search period).
- Add a family resource/asset limit of \$1 million.
- Change the provider rate table to add higher rates for Quality Rating System (QRS) Level 5 providers.

These proposed amendments also allow payments to out-of-state providers without the need for the family to request an exception to policy.

Families receiving assistance will get annual eligibility certifications. Families will be able to keep child care benefits during temporary breaks in employment or education. By utilizing the new exit eligibility criteria, families will also be able to keep child care benefits if their income

exceeds program limits. Child care providers who are participating in QRS and are rated a Level 5 will be reimbursed at a higher rate than other providers.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 2462C** on March 16, 2016. The Department received no comments during the public comment period. These amendments are identical to those published under Notice of Intended Action.

The Council on Human Services adopted these amendments on May 11, 2016.

Pursuant to Iowa Code section 17A.5(2)“b”(2), the Department finds that the normal effective date of these amendments, 35 days after publication, should be waived and the amendments made effective July 1, 2016, because the amendments confer a benefit on the public. These amendments increase eligibility levels for participants and increase provider reimbursement amounts. These amendments are also federally mandated by the reauthorization of the CCDBG (42 U.S.C. 9858).

These amendments do not provide for waivers in specified situations because requests for the waiver of any rule may be submitted under the Department’s general rule on exceptions at 441—1.8(17A,217).

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

These amendments are intended to implement Iowa Code section 234.6 and Child Care and Development Block Grant (42 U.S.C. 9858).

These amendments will become effective July 1, 2016.

The following amendments are adopted.

ITEM 1. Amend rule **441—170.1(237A)**, definition of “Child with special needs,” as follows:

“Child with special needs” means a child with one or more of the following conditions:

1. No change.

2. The child has been determined by a qualified ~~mental retardation~~ intellectual disability professional to have a condition which impairs the child's intellectual and social functioning.

3. No change.

ITEM 2. Amend paragraph **170.2(1)“a”** as follows:

a. Income limits. For initial and ongoing eligibility, ~~a~~ an applicant family's nonexempt gross monthly income as established in paragraph 170.2(1)“c” cannot exceed: the amounts in subparagraphs 170.2(1)“a”(1) to (3). If, at the time of eligibility redetermination as described in subrule 170.3(5), a family's nonexempt gross monthly income exceeds the limits established in 170.2(1)“a”(1) or (2) but not (3), the family shall remain eligible for an additional 12-month period or until their income exceeds that stated in (3), whichever comes first.

(1) to (3) No change.

ITEM 3. Adopt the following new paragraph **170.2(1)“g”**:

g. Resource limits. For initial and ongoing eligibility, family resources may not exceed \$1 million.

ITEM 4. Amend paragraph **170.2(2)“a”** as follows:

a. Age. Child care shall be provided only to children up to age 13, unless they are children with special needs, in which case child care shall be provided up to age 19. When a child reaches the age of 13, or, as applicable, the age of 19, during the certification period, eligibility shall continue until the end of the approved certification period.

ITEM 5. Amend paragraph **170.2(2)“b”** as follows:

b. Need for service. Except for assistance provided under subparagraph 170.2(2)“b”(3), assistance shall be provided to a two-parent family only during the parents' coinciding hours of

participation in training, employment, or job search. Each parent in the household shall meet one or more of the following requirements:

(1) to (3) No change.

(4) The parent is absent from the home due to inpatient hospitalization or outpatient treatment because of physical or mental illness, or is present but due to medical incapacity is unable to care for the child or participate in work or training, as verified by a physician.

1. Eligibility under this paragraph is limited to parents who become medically incapacitated while eligible for child care assistance based on the need criteria in subparagraph 170.2(2)“b”(1) or 170.2(2)“b”(2).

2. Child care assistance shall continue to be available for up to ~~30~~ 90 consecutive days after the parent becomes medically incapacitated. Assistance beyond ~~30~~ 90 days may be approved by the service area manager or designee if extenuating circumstances are verified by a physician.

3. The number of units of service authorized shall be determined as follows:

- For a single parent family or for a two-parent family where both parents are incapacitated, the number of units authorized for the period of incapacity shall not exceed the number of units authorized for the family before the onset of incapacity.

- For a two-parent family where only one parent is incapacitated, the units of service authorized shall be based on the need of the parent who is not incapacitated.

(5) The parent is looking for employment. Child care for job search hours shall be limited to only those hours the parent is actually looking for employment including travel time.

1. ~~A~~ For applicants, a job search plan shall be approved by the department and be limited to a maximum of 30 consecutive calendar days in a 12-month period. EXCEPTION: Additional job search hours may be paid for PROMISE JOBS participants if approved by the PROMISE JOBS

worker.

~~2. Documentation of job search contacts shall be furnished to the department. The department may enter into a nonfinancial coordination agreement for information exchange concerning job search documentation. For ongoing participants, job search shall be limited to a maximum of 90 consecutive calendar days.~~

(6) to (8) No change.

(9) Family eligibility shall continue during an approved certification period when a temporary lapse in need for service for a parent established under this subparagraph occurs. A temporary lapse is defined as a period of not more than 3 consecutive months, and the lapse is due to one or more of the following reasons:

1. Maternity leave.

2. Family Medical Leave Act (FMLA) situations for household members.

3. Participation in a treatment/rehabilitation program.

4. Employment or education/training hours fall below the minimum number required at 170.2(2)“b”(1), (2) or (8).

5. Normal breaks between school terms.

(10) Family eligibility shall be canceled if the lapse in need is not temporary because the family eligibility will continue for more than 3 consecutive months.

ITEM 6. Adopt the following **new** paragraph **170.2(4)“c”**:

c. Exception: Changes in income do not need to be reported during the approved certification period unless the family’s gross monthly income exceeds 85 percent of Iowa’s median family income.

ITEM 7. Amend paragraph **170.3(1)“d”** as follows:

d. Families who are determined eligible for child care assistance shall be approved for a certification period of ~~no longer than six~~ at least 12 months. Families who fail to complete the review and redetermination process as described at subrule 170.3(5) will lose eligibility at the end of the certification period.

ITEM 8. Amend subrule 170.3(5) as follows:

170.3(5) Review and redetermination. The department shall redetermine a family's financial and general eligibility for child care assistance at least every ~~six~~ 12 months. EXCEPTION: The department shall redetermine only general eligibility for recipients of the family investment program (FIP), persons whose earned income was taken into account in determining the needs of FIP recipients, and parents who have children with protective needs, because these families are deemed financially eligible so long as the FIP eligibility or need for protective services continues.

a. to c. No change.

d. Families who ~~are receiving~~ apply for child care assistance because the parent is seeking employment are not subject to review requirements because eligibility is limited to 30 consecutive calendar days. This waiver of the review requirement applies only when the parent who is seeking employment does not have another need for service.

ITEM 9. Adopt the following **new** paragraph **170.4(3)“c”**:

c. Out-of-state provider. A child care provider who is not located in Iowa may be selected by the parent so long as the out-of-state child care provider verifies that the provider meets all of the requirements to be a provider in the state in which the provider operates.

ITEM 10. Amend paragraph **170.4(7)“a”** as follows:

a. Rate of payment. The rate of payment for child care services, except for in-home care which shall be paid in accordance with 170.4(7)“d,” shall be the actual rate charged by the

provider for a private individual, not to exceed the maximum rates shown below. When a provider does not have a half-day rate in effect, a rate is established by dividing the provider’s declared full-day rate by 2. When a provider has neither a half-day nor a full-day rate, a rate is established by multiplying the provider’s declared hourly rate by 4.5. Payment shall not exceed the rate applicable to the provider and age group in Table I, except for special needs care which shall not exceed the rate applicable to the provider and age group in Table II. To be eligible for the special needs rate, the provider must submit documentation to the child’s service worker that the child needing services has been assessed by a qualified professional and meets the definition for “child with special needs,” and a description of the child’s special needs, including, but not limited to, adaptive equipment, more careful supervision, or special staff training.

Table I Half-Day Rate Ceilings for Basic Care							
Age Group	Child Care Center		Child Development Home Category A or B		Child Development Home Category C		Nonregistered Family Home
	Basic	QRS 5	Basic	QRS 5	Basic	QRS 5	
Infant and Toddler	\$16.78	<u>\$20.50</u>	\$12.98	<u>\$13.75</u>	\$12.44	<u>\$15.00</u>	\$8.19
Preschool	\$13.53	<u>\$17.50</u>	\$12.18	<u>\$13.50</u>	\$12.18	<u>\$13.75</u>	\$7.19
School Age	\$12.18	<u>\$14.75</u>	\$10.82	<u>\$12.50</u>	\$10.82	<u>\$13.00</u>	\$7.36

Table II Half-Day Rate Ceilings for Special Needs Care				
Age Group	Child Care Center	Child Development Home Category A or B	Child Development Home Category C	Nonregistered Family Home
Infant and Toddler	\$51.94	\$17.05	\$13.40	\$10.24
Preschool	\$30.43	\$15.83	\$13.40	\$ 8.99
School Age	\$30.34	\$14.61	\$12.18	\$ 9.20

The following definitions apply in the use of the rate tables:

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

(2) No change.

(3) “QRS 5” shall mean a provider who has achieved a rating of Level 5 under the quality rating system.



Iowa Department of Human Services
Information on Proposed Rules

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

1. Give a brief summary of the rule changes:

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

- 12-month certification instead of 6-month
- New exit eligibility criteria for families with income exceeding 145% FPL
- Expand job search from 1 month to 3 months for families who experience a temporary change in employment or education
 - Assistance continues for 12 months regardless of temporary changes
 - Family may only be cancelled after non-temporary change (after 3 month job search period)
- Add \$1M family resource/asset limit
- Change provider rate table to add higher rates for QRS level 5 providers

Also, update to allow payments to out-of-state providers without the need for the family to request an exception to policy.

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

Federal Child Care and Development Block Grant Act of 2014 (42 USC 9858).

3. What is the reason for the Department requesting these changes?

Federal Child Care and Development Block Grant Act of 2014 (42 USC 9858).

4. What will be the effect of this rule making (who, what, when, how)?

Families will get annual eligibility certifications. Families will be able to keep child care benefits during temporary breaks in employment or education. Families will also be able to keep child care benefits if their income exceeds program limits by utilizing the new exit eligibility criteria. Child care providers who are participating in QRS and are rated a 5 will be reimbursed at a higher rate than other providers.

5. Is the change mandated by State or Federal Law?

Federal Child Care and Development Block Grant Act of 2014 (42 USC 9858).

6. Will anyone be affected by this rule change? If yes, who will be affected and will it be to the person's (organization's) benefit or detriment?

Providers. Benefit for QRS rated 5 providers. Other providers will also benefit from more stability due to annual certifications for families.

Families. Benefit from annual certifications, continued coverage during temporary breaks in employment or education, new exit eligibility criteria.

7. What are the potential benefits of this rule?

Greater stability for providers who serve CCA children due to annual certification.
Higher reimbursement for QRS 5 rated providers.

Greater stability for families due to annual certification and ability to keep care even during temporary breaks in employment and education. Ability for families to keep child care for up to 12 months when their income exceeds eligibility limits due to new exit eligibility criteria.

8. What are the potential costs, to the regulated community or the state of Iowa as a whole, of this rule?

Estimated annual cost of \$8M.

9. Do any other agencies regulate in this area? If so, what agencies and what Administrative Code sections apply?

No.

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

N/A

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

This amendment does not provide a specific waiver authority because families may request a waiver of these provisions in a specified situation under the Department's general rule on exceptions at 441 – 1.8(17A, 217)

12. What are the likely areas of public comment?

Rules are increasing provider payment rates for providers rated as QRS "5". There have been some comments asking why accredited providers (those who are not rated as QRS 5) are not also eligible for these higher payment rates?

13. Do these rules have an impact on private-sector jobs and employment opportunities in Iowa? (If yes, describe nature of impact, categories and number of jobs affected, state regions affected, costs to employer per employee).

No.

ADMINISTRATIVE RULE FISCAL IMPACT STATEMENT

Date: 1/8/2016

Agency: Human Services
IAC citation: 441 IAC
Agency contact: Mark Adams

Summary of the rule:

Revise 441 IAC 170 to change rules relating to CCA policy due to federal CCDBG reauthorization.

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:

The changes being made effective 7/1/16 to comply with the federal regulations revised under the Child Care and Development Block Grant (CCDBG) Act of 2014 are as follows:

1. Extend the eligibility period for Child Care Assistance (CCA) from 6 months to 12 months.
2. Exit Eligibility - Provide a graduated phase-out of CCA for families who exceed the income threshold at the time of eligibility redetermination.
3. Job Search - Increase the period of continued assistance due to a non-temporary loss of job, education, or training from 1 month to 3 months.
4. Implement a tiered reimbursement system to take into consideration the cost of providing higher quality child care when setting payment rates.
5. Quality Set Aside - Provide sufficient funding to meet the increasing percentage of expenditures required for quality activities. Note that this is a cost associated with CCDBG reauthorization, but rule changes are not needed for this provision.

- Estimates for 12-month eligibility assume an average monthly cost per family of \$687, by dividing the average projected monthly cost of \$7,707,196 by 11,225 families. The number of families was based on 17,960 average projected children per month divided by 1.6 children per family = 11,225 families. Caseloads due to this change are estimated to increase by an average of 451 families per month.

The increase in the number of cases handled by Field Operations would be offset by the time saved by performing the reviews annually rather than every six months. There would be no overall costs savings for the Field Operations appropriation because any time savings would result in staff being reassigned to other work.

- Estimates for Exit Eligibility assume an average monthly cost per family of \$401.3145. It is estimated this change would effect an average of 260 families per month.
- Estimates for Job Search assume an average monthly cost per family of \$657. It is estimated that this change would effect an average of 196 families in FY17 and 224 families in FY18.
- It is assumed that the cost for the tiered reimbursement based on child care providers at QRS level 5 would increase by 5% each year due to the incentive for providers to achieve QRS level 5 and the incentive to take children on CCA.
- The minimum required quality set aside for FY17 is 7% plus an additional 3% for infant and toddler activities, for a total of 10%. The minimum required quality set aside increases to 8% for FY18 and maintains the infant and toddler requirement at 3%, for a total of 11%.

Describe how estimates were derived:

1. 12-Month Eligibility: **Annual cost = \$3,718,044** (451 families per month x \$687 x 12 months)
2. Exit Eligibility: **Annual cost = \$1,250,101** (260 families per month x \$401.3145 x 12)
3. Job Search: **FY17 cost = \$1,545,264** (196 families per month x \$657 x 12 months)
FY18 cost = \$1,766,016 (224 families per month x \$657 x 12 months)
4. Tiered Reimbursement: **SFY17 cost = \$686,591** Estimated by applying 2014 market rates to the payments for child care providers at QRS level 5. **SFY18 cost = \$720,921** based on 5% increase.
5. Quality Set Aside: **FY17 cost = \$800,000**. The 7% quality set aside can be met using current expenditure levels plus a portion of the new tiered reimbursement expenses to meet the \$6.1M required. The new 3% infant and toddler minimum required expenditures are \$2.6M. of which all but about \$800,000 can be met by allocating current expenditures and the proportionate amount of the tiered reimbursement costs. **FY18 cost = \$1,600,000**. An additional \$800,000 is needed to meet the 8% quality set aside minimum requirement and maintain the 3% infant and toddler minimum requirement. Note that this is a cost associated with CCDBG reauthorization, but rule changes are not needed for this provision.
Total cost increase for FY17 = \$8,000,000
Total cost increase for FY18 = \$9,055,082
An increase in TANF funding along with a projected reduction in the existing expenditures for CCA are expected to cover this cost increase for SFY17.

Estimated Impact to the State by Fiscal Year

	<u>Year 1 (FY 2017)</u>	<u>Year 2 (FY 2018)</u>
Revenue by each source:		
General fund		
Federal funds	\$6,619,716	\$6,619,716
Other (specify):		
TOTAL REVENUE	\$6,619,716	\$6,619,716
Expenditures:		
General fund	\$8,000,000	\$9,055,082
Federal funds		
Other (specify): Projected reduction in existing CCA expenditures	(\$1,380,284)	(\$1,380,284)
TOTAL EXPENDITURES	\$6,619,716	\$7,674,798
NET IMPACT	\$0	(\$1,055,082)

X This rule is required by state law or federal mandate.

Please identify the state or federal law:

The changes in this rule are required under the Child Care and Development Block Grant (CCDBG) Act of 2014. Proposed funding has been included within the Child Care Assistance appropriation in the FY17 Governor's budget recommendation. An increase in general funds for FY18 may need to be requested depending on whether an increase in federal funding is available to cover the increased costs.

_____ Funding has been provided for the rule change.

Please identify the amount provided and the funding source:

_____ Funding has not been provided for the rule.

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

Fiscal impact to persons affected by the rule:

An increase in CCA payments to child care providers with a QRS rating of 5. Additional benefits for providers and families due to change in eligibility redeterminations from 6 months to 12 months, new exit eligibility criteria, continued coverage during temporary breaks in employment or education, and an additional two months of coverage due to loss of employment.

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

None anticipated.

Agency representative preparing estimate: Kathy Blume

Telephone number: 281-4196