HUMAN SERVICES DEPARTMENT [441]
Notice of Intended Action

Pursuant to the authority of Iowa Code section 225C.6(1) and 2012 Iowa Acts Chapter 1120, Section 38, the Department of Human Services adopts a new division of Chapter 25, "Disability Services Management," Iowa Administrative Code.

These amendments establish criteria for exempting counties from joining into regions to administer mental health and disability services. The Department of Human Services is charged with implementing redesign of the mental health and disability services system into a regionally administered, locally delivered service system. The authority to accept applications for an exemption is repealed effective July 1, 2013.

The Department was given emergency rule making authority due to the requirements in Code for counties to voluntarily form regions by April 1, 2013, or submit a letter of intent by May 1, 2013 to apply for an exemption from forming into a region of at least three (3) contiguous counties.

These rules were also Adopted and Filed Emergency and are published herein as ARC XXXXC. The purpose of this Notice is to solicit comment on that submission and subject matter.

Any interested person may make written comments on the proposed amendments on or before x, 2012. Comments should be directed to Harry Rossander, Bureau of Policy Coordination, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by E-mail to policyanalysis@dhs.state.ia.us.

These amendments do not provide for waivers in specified situations because the legislation does not specifically allow for waivers. 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 rules are intended to implement 2012 Iowa Acts, Chapter 1120, Division IV, Section 32.

The following amendments are proposed.

ITEM 1. Amend the Preamble for Chapter 25, "Disability Services Management," as follows:

PREAMBLE

This chapter provides for reporting of county expenditures, development and submission of management plans, data collection, and applications for funding as they relate to county service systems for people with mental illness, chronic mental illness, ~~mental retardation,~~ intellectual disabilities, developmental disabilities, or brain injury.

ITEM 2. Adopt the following **new** Division 441—Chapter 25, Division VIII, Criteria for Exempting Counties from Joining into Regions to Administer Mental Health and Disability Services.

DIVISION VIII

CRITERIA FOR EXEMPTING COUNTIES FROM JOINING INTO REGIONS TO ADMINISTER MENTAL HEALTH AND DISABILITY SERVICES.

441-25.91.(1) (225C.6) Definitions

“Applicant” means a single county or two counties that submit an application for an exemption from the requirement to join a region of three or more contiguous counties.

“Clear lines of accountability” means the governing board’s organizational structure makes it evident that the ultimate responsibility for the administration of non-Medicaid funded mental health and disability services lies with the governing board and that the governing board directly and solely supervises the organization’s chief executive officer.

“Coordinator of Disability Services” means a person that meets the qualifications of a coordinator of disability services as defined in 2012 Iowa Acts, Chapter 1120, Section 33(3)b and is responsible to ensure that individuals receive effective service coordination consistent with the county or counties’ management plan.

“Core services” means core services mandated to be provided by the regional service system as defined in 2012 Iowa Acts, Chapter 1120, Section 15.

“Department” means the Iowa department of human services.

“Director” means the director of the department.

“Evidence-based practice” means interventions that have been rigorously tested, have yielded consistent, replicable results, and have proven safe, beneficial, and effective.

“Penetration rate” for the purposes of this rule means the per capita number of the adults in the adult population of a county receiving mental health and disability services.

“Reasonably close proximity” means a distance of 100 miles or less or a driving distance of 2 hours or less from the county seat or county seats of the applicant.

“Trauma-informed care” means services that are based on an understanding of the vulnerabilities or triggers of individuals who have experienced trauma, recognizes the role trauma has played in their lives, are supportive of trauma recovery, and avoid re-traumatization.

441-25.91.(2) (225C.6) Application criteria for exemption from the requirement to form a region of three or more contiguous counties. An application for exemption from the requirement to form a region of three or more contiguous counties shall meet the following requirements:

a. The applicant shall submit a written statement that is signed by the applicant's chairperson of the county board of supervisors that the applicant intends to apply for an exemption from the requirement to form a region of three or more contiguous counties. The signed written statement of intent must be received by the department on or before May 1, 2013 at 4:30PM.

b. The applicant shall submit a written application on forms specified by the department with required supporting documentation. The department shall only accept applications that are complete, signed by the applicant's chairperson of the county board of supervisors, dated, and received by the department by 4:30PM June 30, 2013.

c. The director of the department of human services shall issue a decision on the application within forty-five days of receiving the application. The director shall deny an application if the application does not meet the criteria described in Iowa Code or rule.

441-25.91.(3) (225C.6) Applicant Criteria.

The application shall include written documentation and evidence that the applicant has:

a. The capacity to provide required core services and perform required functions described in 2012 Iowa Acts, Chapter 1120, Section 15 Iowa Code 331.439D.

b. A contract with a community mental health center or a federally qualified health center that provides psychiatric and outpatient mental health services in the applicant's county or

counties or written intent from the community mental health center or federally qualified health center to enter into such a contract.

c. A contract with a hospital with an inpatient psychiatric unit or a state mental health institute located in or within reasonably close proximity that has the capacity to provide inpatient services to the applicant or written intent from the state mental health institute or inpatient psychiatric unit to enter into such a contract.

d. An administrative structure with clear lines of accountability and a description of the applicant's administrative functions.

e. Taken steps to determine and demonstrate that forming a region of three or more contiguous counties is not workable.

441-25.91(4) (225C.6) Core Services and Required Functions Standards. The department shall review the application to determine if the applicant has provided written documentation and evidence for the availability of:

a. A 24 hour, 7 day a week, 365 days per year telephone response system for mental health and disability related emergencies in the applicant's county or counties.

b. Service providers in the applicant's county or counties that demonstrate the capability of providing evidenced based practices that the applicant has independently verified meet established fidelity to evidenced based service models including, but not limited to:

(1) Assertive community treatment or strengths based case management.

(2) Integrated treatment of co-occurring substance abuse and mental health disorders.

(3) Supported employment.

(4) Family psychoeducation.

(5) Illness management and recovery.

(6) Permanent supportive housing.

c. Service providers in the applicant's county or counties that are trained to provide effective services to persons with two or more of the following co-occurring conditions: mental illness, intellectual disability, developmental disability, brain injury, or substance use disorder. Training for serving persons with co-occurring conditions shall be training identified by the Substance Abuse and Mental Health Services Administration, the Dartmouth Psychiatric Research Center or other generally recognized professional organization specified in the application.

d. Service providers in the applicant's county or counties that are trained to provide effective trauma informed care. Trauma informed care training shall be training identified by the National Center for Trauma Informed Care or other generally recognized professional organization specified in the application.

441-25.91(5) (225C.6) Service Capacity. The department shall review the material provided in the application and by the applicant and other counties in their required county reports to determine if the applicant demonstrates that it has:

a. Sufficient financial resources to fund required core services.

b. A penetration rate that is at least equal to or exceeds the statewide per capita average for individuals with a mental illness or individuals with an intellectual disability.

c. A per capita use of in-patient psychiatric hospital services that is less than or equal to the statewide per capita average.

d. A per capita use of intermediate care facilities for individuals with intellectual disabilities that is less than or equal to the statewide per capita average.

e. A per capita use of outpatient mental health services that is greater than or equal to the statewide per capita average.

f. A per capita use of supported community living services that is greater than or equal to the statewide per capita average.

g. An average cost of service per individual served that is equal to or less than the statewide average.

h. Administrative costs, as a percentage of non-Medicaid service expenditures, that are less than or equal to the statewide average.

441-25.91 (6) (225C.6) Provider network sufficiency. The department shall review the application to determine if the applicant provided written documentation and evidence of:

a. A contract with a community mental health center that provides services in the applicant county or counties or a federally qualified health center that provides psychiatric and outpatient mental health services in the applicant's county or counties or written intent by a community mental health center or federally qualified health center to enter into such a contract.

b. Contracts with licensed and accredited providers to provide each service in the required core service domains or written intent by providers to enter into such contracts.

c. Adequate numbers of licensed and accredited providers to ensure availability of core services so that there is no waiting list for services due to lack of available providers.

d. A contract with an inpatient psychiatric hospital unit or state mental health institute within reasonably close proximity or written intent by an inpatient psychiatric hospital unit or state mental health institute to enter into such a contract.

441-25.91(7) – (9) (225C.6) Reserved.

441-25.91(10) (225C.6) Staffing. The department shall review the application to determine if the applicant provided written documentation and evidence of:

a. Clear lines of accountability.

b. The regional administrator staff including one or more coordinators of disability services.

441-25.91(11) (225C.6) Reserved.

441-25.91(12) (225C.6) Determination that formation of a region is unworkable. The department shall review the application to determine if the applicant has provided documentation and convincing evidence that it has evaluated the feasibility of forming into a region of three or more contiguous counties and that forming into such a region is unworkable.

441--25.91(13) (225C.6) Compliance with requirements of a mental health and disability services region. The applicant shall continuously fulfill all of the requirements of a region under chapter 331 and chapter 225C for regional service system, regional service system management plan, regional governing board, regional administrator, and any other provisions applicable to a region of counties providing local mental health and disability services. If the applicant does not fulfill these requirements the department may address the deficiencies in the following order:

a. Requiring compliance with a corrective action plan that may include, but is not limited to, participation in technical assistance provided or arranged by the department, revision of the regional management plan, or other corrective actions required by the department.

b. Reducing the amount of the annual state funding provided through the mental health and disabilities regional services fund for the regional service system, not to exceed fifteen percent of the amount of the annual state funding.

c. Withdrawing approval for the county exemption.

Information on Proposed Rules

Name of Program Specialist	Telephone Number	E-mail Address

1.	Give a brief summary of the rule changes: The rule describes the process a county or counties need to use for applying for an exemption from forming into a region of three or more contiguous counties to administer non-Medicaid mental health and disability services. The rule also describes the criteria used by the Department for determining whether or not to approve such applications.
2.	What is the legal basis for the change? (Cite the authorizing state and federal statutes and federal regulations): 2012 Iowa Acts Chapter 1120, Section 38
3.	Why is the Department requesting these changes? The Department is requesting these changes to meet the Iowa Code requirement to allow counties to apply to the Department to be exempted from joining into a region of three or more contiguous counties to administer non-Medicaid mental health and disability services.
4.	What will be the effect of this rule making (who, what, when, how)? This rule making will provide guidance for how counties can apply for an exemption to forming into regions and how the decision will be made regarding these applications. Counties must submit letters of intent are due May 1, 2013 and applications by June 30, 2013.
5.	What are the potential costs and benefits of this rule making to the persons affected? There are no costs to persons affected by this rule. The benefit is that counties may apply to be exempted from forming into a region as authorized by Iowa Code.
6.	What are the potential costs and benefits of this rule to the state? There are no costs to the state as a result of this rule, other than marginal routine administrative costs. There are no benefits to the state.
7.	What are the likely areas of public comment or controversy? Some counties may be concerned that the rules are too stringent.
8.	Are there any alternatives to making these changes in rules that you considered and rejected? There are no known alternatives to making these rules as required by the Iowa Code.
9.	What will be the effect on other governmental bodies (federal or state agencies, county governments)? Counties will be the entities applying for exemptions to forming into regions
10.	If rules do not contain waiver provisions, explain why: The rule itself constitutes a waiver from code.

11. 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)

    The rules do not have an impact on private-sector jobs or employment opportunities in Iowa.

ADMINISTRATIVE RULE FISCAL IMPACT STATEMENT

Date: 12/24/2012

Agency: Human Services

IAC citation: 441 IAC

Agency contact: Lee Hill

Summary of the rule: The rule establishes a process for one or two counties to apply for exemption from the requirement to form into a region of at least three counties for the purpose of administering non-Medicaid mental health services. The rule establishes conditions to ensure that a county has sufficient breadth of coverage and depth of capacity to fully meet the needs for services in all the required core service domains.

Fill in this box if the impact meets these criteria:

X 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:

The service capacity requirements and similar conditions can be used to require that any county exempted from joining a region must be at least as cost-efficient as other counties in the state, which makes it possible to avoid granting exemptions to counties that might otherwise place a larger burden on the Regional Services Fund as a result of going it alone.

Fill in the form below if the impact does not fit the criteria above:

___ Fiscal impact of $100,000 annually or $500,000 over 5 years.

Assumptions:

Describe how estimates were derived:

Estimated Impact to the State by Fiscal Year

	Year 1 (FY)	Year 2 (FY)
Revenue by each source:		
General fund		
Federal funds		
Other (specify):		
TOTAL REVENUE		
Expenditures:		
General fund		
Federal funds		
Other (specify):		

TOTAL EXPENDITURES _____ _____

NET IMPACT _____ _____

This rule is required by state law or federal mandate.

____ *Please identify the state or federal law:*

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:

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

Agency representative preparing estimate: Lee Hill Paul Scavo 12/26/12

Telephone number: 515-281-5764