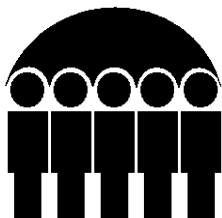


Revised June 8, 1999

Employees' Manual
Title 1
Chapter B

POLICY DEVELOPMENT



Iowa
Department
of
Human Services

	<u>Page</u>
OVERVIEW	1
ADMINISTRATIVE RULES	1
Department Rule-Making Record.....	2
Public Rule-Making Docket	4
Subscriptions to Notices of Intended Action	5
Public Participation.....	6
Written Comments	6
Scheduling Oral Proceedings	7
Notice of Oral Proceedings	8
Conduct of Oral Proceedings	9
Concise Statement of Reasons	11
Fiscal Impact Statement.....	12
Regulatory Analysis	12
Qualified Requesters	13
Contents of Regulatory Analysis	13
Review of Rules.....	15
PETITION FOR RULE MAKING	16
Review of Petition	17
Decision on Petition.....	18
DECLARATORY ORDERS	18
Review of Petition	20
Decision on Petition.....	21
Good Cause for Refusal to Issue Order.....	21
Effect of Declaratory Order.....	22
EXCEPTIONS TO POLICY.....	23
Completion of Request	23
Factors Considered in Granting Exceptions	24
Decisions on Exceptions.....	25
Interaction With Appeals	25

	<u>Page</u>
POLICY MANUALS.....	26
Employees' Manual	26
Management Manual	28
State Handbook of Procedure	28
Methods of Issuance	29
General Letters	29
Manual Letters	30
Circular Letters	31
Internal Distribution.....	32
Distribution of Printed Manuals.....	32
Advance Copies	33
Manual Checklists.....	34
Changes in Distribution	34
On-Line Manual.....	35
Availability to the Public	36
Subscription to Employees' Manual.....	36
REQUESTS FOR POLICY CLARIFICATION.....	37
Format for Requests.....	38
Preparation and Distribution of Response	39
Availability	39

OVERVIEW

The Department of Human Services has responsibility for administering various laws. As these laws change, or new ones are added, the Department must change its policies and procedures accordingly. Since many Departmental programs are partially federally funded, policies and procedures also change as federal laws and regulations change.

The Department has developed an official, systematic method of communicating policies and procedures, and changes to them, to its staff. This chapter contains an explanation of the communications system, as well as other related material.

ADMINISTRATIVE RULES

The Administrative Procedures Act, Iowa Code Chapter 17A, requires all state agencies to promulgate rules for the operation of their programs. The rule-making process:

- ◆ Increases agencies' accountability to the public.
- ◆ Allows public participation in the formulation of rules.
- ◆ Provides legislative oversight for program operations through review by the Administrative Rules Review Committee, composed of five senators and five representatives.

Before the Department's rules are adopted, they are published in the *Iowa Administrative Bulletin* as a "notice of intended action." The notice must include a preamble giving a brief explanation of the reasons for the Department's actions. Any interested persons may submit comments on the proposed rules within time frames set forth in the notice.

All notices must allow at least 20 days for persons to submit comments or to request an oral presentation. The Department may not adopt the rules until 35 days after the date the notice of intended action is published. Three bodies have the authority to make rules for the Department:

- ◆ The Council on Human Services.
- ◆ The Mental Health and Mental Retardation Commission.
- ◆ The HAWK-I Board.

Following notice and adoption, the final rules are again published in the *Iowa Administrative Bulletin*. They become effective at a date specified with the final rule. Normally the Department must allow at least 35 days from the date of publication for people to prepare to implement the rules.

After the rules are effective, they become the administrative law that forms the basis for Departmental policies. The Legislative Service Bureau publishes a compilation of all the current rules of all state agencies in the Iowa Administrative Code.

State law allows waiver of the notice period if the agency can show that the time for comment is:

- ◆ Unnecessary,
- ◆ Impracticable, or
- ◆ Contrary to the public interest.

The implementation period may be waived if the agency can show that:

- ◆ The change is required by statute to be implemented by emergency rules,
- ◆ The change confers a benefit or removes a restriction on all persons affected by the rules, or
- ◆ Imminent peril to the public health, safety or welfare exists.

It takes approximately six months to get a rule through the regular rule-making process, from the time the draft rule is submitted to the Office of Policy Analysis. Waiving either the notice or the implementation period shortens the time frame to four months. Waiving both the notice and implementation periods shortens the time to two months.

The following sections explain the requirements for:

- ◆ The Department's rule-making record
- ◆ The public rule-making docket
- ◆ Subscriptions to notices of intended action
- ◆ Public participation in the rule-making process
- ◆ A concise statement of reasons for adopting the rule
- ◆ A fiscal impact statement
- ◆ A regulatory analysis
- ◆ Review of rules

Department Rule-Making Record

Legal reference: 441 IAC 3.13(17A)

The Department must maintain an official rule-making record for each rule it publicly proposes or adopts. The rule-making record and materials incorporated by reference are available for public inspection.

The Department rule-making record contains:

- ◆ Copies of or citations to all publications in the *Iowa Administrative Bulletin* with respect to the rule or the proceeding upon which the rule is based.
- ◆ Any file-stamped copies of Department submissions to the administrative rules coordinator concerning that rule or the proceeding upon which it is based.
- ◆ Copies of form 470-0096, *Rule Log*, containing dates of actions and *Iowa Administrative Bulletin* references relating to the rule or the proceeding upon which the rule is based.
- ◆ All written petitions, requests, and submissions received by the Department, and all other written factual materials (as distinguished from opinion) that:
 - Are relevant to the merits of the rule and
 - Were created or compiled by the Department and considered in connection with the formulation, proposal, or adoption of the rule or the proceeding upon which the rule is based.

Exception: When the Department has legal authority to keep these materials confidential, it deletes them from the rule-making record. The Department identifies in the record any materials deleted for this reason and states the reasons for the deletion.

- ◆ Any official transcript of oral presentations made in the proceeding upon which the rule is based and any memorandum prepared by a presiding officer summarizing the contents of those presentations. (If the proceeding is not transcribed, the record contains the stenographic record or electronic recording of those presentations.)
- ◆ A copy of any regulatory analysis or fiscal impact statement prepared for the proceeding upon which the rule is based.
- ◆ A copy of the rule and any concise statement of reasons prepared for that rule.
- ◆ All petitions for amendments or repeal or suspension of the rule.
- ◆ A copy of any objection to the issuance of that rule without public notice and participation filed by the Administrative Rules Review Committee, the governor, or the attorney general.
- ◆ A copy of any objection to the rule filed by the Administrative Rules Review Committee, the governor, or the attorney general pursuant to Iowa Code subsection 17A.4(4), and any Department response to that objection.

- ◆ A copy of any significant written criticism of the rule, including a summary of any requests for an exception to the rule.
- ◆ A copy of any executive order concerning the rule.

The Department maintains the rule-making record for at least five years from the date the rule to which it pertains became effective or the date of the notice of intended action, whichever is later.

Public Rule-Making Docket

Legal reference: 441 IAC 3.3(17A)

The Department maintains a current rule-making docket for public inspection on its Internet web site, at **www.dhs.state.ia.us/policyanalysis**.

This docket lists each pending rule-making proceeding. It includes rules from the time the Office of Policy Analysis submits the rules to the administrative rules coordinator in the governor's office for filing to the time the Department terminates the proposed rules or they become effective. For each rule-making proceeding, the docket indicates:

- ◆ The subject matter of the rule.
- ◆ Citation of all published notices relating to the proceeding.
- ◆ The place where people can inspect written submissions on the rule.
- ◆ The time during which people can make written submissions.
- ◆ The names of people who have requested oral presentations.
- ◆ Whether anyone has requested a regulatory analysis or a concise statement of reasons.
- ◆ Whether the Department has issued such an analysis or statement.
- ◆ The current status of the rule.
- ◆ The projected timetable for agency decision.
- ◆ The date of the rule's adoption.
- ◆ The date on which the rule will become effective.
- ◆ Where people may inspect the rule-making record.

Subscriptions to Notices of Intended Action

Legal reference: 441 IAC 3.4(17A)

People can subscribe to receive notices of proposed rulemaking either electronically or by mail.

People who subscribe on the Policy Analysis web site, **www.dhs.state.ia.us/policyanalysis**, receive weekly notification of notices of intended action that have been filed with the administrative rule coordinator.

The Department will furnish copies of the notices of intended action to people who request them and who are willing to pay the subscription cost. The Office of Policy Analysis recalculates the costs of a notice subscription each year based upon the notices issued in the previous year.

People may subscribe to all notices, or to only income maintenance or only service program notices. (Service notices include those promulgated by the Mental Health and Mental Retardation Commission.)

People who want to receive mailed copies of the notices must mail a written request to the DHS Office of Policy Analysis, 1305 E. Walnut St., 5th Floor, Des Moines, Iowa 50319-0114.

The Office of Policy Analysis will send the requester form 470-2250, *Notice Subscription*. When the cashier's office receives the form and payment from the requester, Policy Analysis places the person on the mailing list.

Policy Analysis mails notices to the subscribers within seven days after the rule is submitted to the administrative rules coordinator for publication in the ***Iowa Administrative Bulletin***.

Public Participation

Legal reference: 441 IAC 3.5(17A)

Anyone wishing to comment on the Department's rules can do so by submitting written comments or by attending any of the oral proceedings scheduled by the Department.

In addition to receiving written comments and oral presentations on a proposed rule, the Department may obtain information concerning the rule through any other lawful means deemed appropriate under the circumstances.

The Department may send notices of proposed rule making and a request for comments to any agency, organization, or association with a direct interest or expertise pertaining to the substance of the proposed rule.

The following sections give more information on:

- ◆ Procedures for submitting written comments
- ◆ Scheduling oral presentations
- ◆ Notice of oral presentations
- ◆ Conduct of oral presentations

Written Comments

People may submit arguments, data, and views on the Department's proposed rules in writing or via electronic transmission for at least 20 days after publication of the notice of intended action. These comments should identify the proposed rule to which they relate.

Submit comments:

- ◆ By mail to the DHS Office of Policy Analysis, 1305 E. Walnut St., Des Moines, Iowa 50319-0114, or
- ◆ By electronic mail to the Department's rules administrator at **policyanalysis@dhs.state.ia.us**, or
- ◆ By fax to 515-281-4980

Scheduling Oral Proceedings

The Department may schedule an oral proceeding on a proposed rule at any time.

For a rule directly affecting indigent clients, the Department schedules proceedings in each of the eight service areas. For rules not directly affecting indigent clients, the Department determines for each rule whether it is necessary to hold proceedings in all eight locations.

Anyone may object to the Department's decision before the date of the proceedings by writing the same address specified in the notice of intended action for receiving written data, views, or arguments. The Department will review the adequacy of the number of locations in light of the comments received.

The Department must schedule an oral proceeding if a written request for an opportunity to make oral presentations is submitted to the Department within 20 days after the published notice of intended action by:

- ◆ The Administrative Rules Review Committee,
- ◆ A governmental subdivision,
- ◆ A state agency,
- ◆ An association having not less than 25 members, or
- ◆ At least 25 people.

When one or more individuals makes a request, it must be signed by each person and include each person's address and telephone number.

A request by an association must be signed by an officer or designee of the association. It must contain a statement that the association has at least 25 members and the address and telephone number of the person signing that request.

When a state agency or governmental subdivision makes a request, an official having authority to act on behalf of the entity must sign it. It must contain the address and telephone number of the person signing the request.

The Department may waive technical compliance with these procedures.

A request is timely when the Department receives it by the date specified in the notice of intended action for submission of written data, views, or arguments. The Department will not accept requests for oral presentations received after the deadline and will return them to the requester.

The Office of Policy Analysis contacts each location for a meeting to have the office schedule a time and place for the meeting. At that time, Policy Analysis tells the office the subject of the rule change, whether more than one meeting should be held in each location, and any other special requirements for the meeting. Whenever possible, Policy Analysis allows five working days for scheduling.

The Department schedules oral proceedings in rooms accessible to and functional for persons with physical disabilities. Persons who have special requirements should contact the Office of Policy Analysis at (515) 281-8440 in advance to arrange access or other needed services.

Notice of Oral Proceedings

The Office of Policy Analysis is responsible for having the notice published in the *Iowa Administrative Bulletin*.

In addition, the Department's communication specialist sends notice of all oral proceedings to the Link, which distributes the notices to the newspapers, and television and radio studios. Publication or release of the notice is voluntary on the media's part.

Conduct of Oral Proceedings

At an oral proceeding on a proposed rule, persons may make oral statements and make documentary and physical submissions. These may include data, views, comments or arguments concerning the proposed rule. Oral proceedings are open to the public and are recorded by stenographic or electronic means.

Either the presiding officer or another employee present should be familiar with the program involved to answer questions that may arise. However, this meeting is a chance for interested persons to present their opinions on the proposed rules. The person conducting the meeting is not expected to defend the proposal.

The Office of Policy Analysis provides the presiding officer with:

- ◆ An opening statement to be read at the beginning of the meeting.
- ◆ A copy of form 470-0114, *Information on Rules*, to provide more background information.

Whenever possible, Policy Analysis sends this material three weeks before the meetings.

Persons wishing to make oral presentations at the proceeding are encouraged to notify the Department at least one business day before the proceeding and indicate the general subject of their presentations.

People attending the oral proceeding are asked to sign a sign-in sheet requesting the person's name, address, and agency affiliation. At the beginning of the oral proceeding, the presiding officer gives:

- ◆ A brief synopsis of the proposed rule.
- ◆ The reasons for the Department decision to propose the rule.

People who participate shall:

- ◆ Indicate their names and addresses,
- ◆ Identify any persons or organizations they represent, and
- ◆ Provide any other information relating to their participation deemed appropriate by the presiding officer.

Participants in an oral proceeding do not have to take an oath or submit to cross-examination. The presiding officer may question participants and permit questioning by other participants about any matter relating to that rule-making proceeding. This includes any prior written submissions made by those participants in that proceeding. However, no participant is required to answer any question.

The presiding officer has the authority to take any reasonable action necessary for the orderly conduct of the meeting. Where time permits, the presiding officer may:

- ◆ Permit rebuttal statements.
- ◆ Open the floor to questions or general discussion to facilitate the exchange of information.

The presiding officer may place time limits on individual oral presentations when necessary to ensure the orderly and expeditious conduct of the oral proceeding. To encourage joint oral presentations and to avoid repetition, additional time may be provided for persons whose presentations represent the views of others as well as their own views.

The presiding officer may continue the oral proceeding to a later time without notice other than by announcement at the hearing.

Whenever possible, persons making oral presentations should submit their testimony in writing. Participants shall submit any physical and documentary presentations to the presiding officer. These submissions become the property of the Department. The presiding officer may request the filing of written statements after the adjournment of the oral presentations.

If a reporter come to the oral presentation and wishes to conduct an interview, the reporter should be asked to wait until the presentations are concluded before conducting the interview.

After the presentations are completed, the presiding officer must:

- ◆ Transcribe minutes or a summary of the main points of each presentation.
- ◆ Send this to the Office of Policy Analysis within the time frame specified in the memo transmitting the opening statement.

When transcribing minutes, you may omit the Department's statement and any presentation being sent in written form. If there were no participants, submit a memo to that effect. Send in staff comments separately from public comments.

Copies of the summary from the oral proceeding are available to persons at the cost of reproduction. This summary may be found on the Rules share on HOOVR3S1 under the phcomm directory.

Concise Statement of Reasons

Legal reference: 441 IAC 3.11(17A)

Any person or agency may request in writing a concise statement of the Department's reasons for adopting a rule either:

- ◆ Before the rule is adopted or
- ◆ Within 30 days after its publication in the *Iowa Administrative Bulletin* as an adopted rule.

The Office of Policy Analysis considers a request to be made on the date it receives the written request. The request must indicate whether the requester is seeking a statement for all or only a specified part of the rule.

Upon receipt of a request for a concise statement of reasons, the Policy Analysis requests the bureau promulgating the rule to prepare the statement for the director's signature.

After a timely request, the Department shall issue the concise statement of reasons by the later of the time the rule is adopted or 35 days after the receipt of the request. The concise statement of reasons must contain:

- ◆ The reasons for adopting the rule.
- ◆ An indication of any change between the text of the proposed rule contained in the published notice of intended action and the text of the rule as finally adopted, with the reasons for the changes.
- ◆ The principal reasons urged in the rule-making proceedings for and against the rule.
- ◆ The Department's reasons for overruling the arguments made against the rule.

Fiscal Impact Statement

Legal reference: 441 IAC 3.7(17A)

The Department must publish a fiscal impact statement with any rule it notices that mandates additional combined expenditures exceeding \$100,000 by all:

- ◆ Affected political subdivisions, or
- ◆ Agencies and entities which contract with political subdivisions to provide services.

If the Department determines when it adopts the rule that the fiscal impact statement contains errors, the Department will publish a corrected fiscal impact statement at the same time.

Regulatory Analysis

Legal reference: 441 IAC 3.6(17A)

The Department must issue a regulatory analysis if requested to do so:

- ◆ Within 32 days after the published notice of proposed rule adoption, or
- ◆ Within 70 days of publication, if a rule was published without prior notice and an opportunity for public participation.

When the Department receives a timely request for a regulatory analysis, it must extend the comment period until at least 20 days after a concise summary of the regulatory analysis is published in the *Iowa Administrative Bulletin*. This extension applies to:

- ◆ The end of the period during which persons may make written submissions on the proposed rule.
- ◆ The end of the period during which a person may request an oral proceeding.
- ◆ The date of any required oral proceeding on the proposed rule.

When the Department adopted the rule without prior notice and an opportunity for public participation, it must publish the summary within 70 days of the request.

The following sections explain:

- ◆ Who can request a regulatory analysis
- ◆ Contents of a regulatory analysis

Qualified Requesters

The Department shall issue a regulatory analysis of a proposed rule after a proper request from:

- ◆ The administrative rules coordinator.
- ◆ The Administrative Rules Review Committee.

The Department shall issue a regulatory analysis of a proposed rule affecting a small business after a proper request from:

- ◆ The Administrative Rules Review Committee.
- ◆ The administrative rules coordinator.
- ◆ At least 25 or more persons who sign the request provided that each represents a different small business.
- ◆ An organization representing at least 25 small businesses. The organization shall list the name, address and telephone number of not less than 25 small businesses it represents.

Contents of Regulatory Analysis

The regulatory analysis must contain all of the following, unless waived by the written request:

- ◆ A description of the classes of persons who probably will be affected by the proposed rule. This includes classes that will bear the costs of the proposed rule and classes that will benefit from the proposed rule.
- ◆ A description of the proposed rule's probable quantitative and qualitative impact (economic or otherwise) upon affected classes of persons. Include a description of the nature and amount of all of the different kinds of costs that people would incur in complying with the proposed rule.
- ◆ The probable costs to the Department and to any other agency of the implementation and enforcement of the proposed rule.
- ◆ Any anticipated effect on state revenues.
- ◆ A comparison of the probable costs and benefits of the proposed rule to the probable costs and benefits of inaction.

- ◆ A determination of whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rule.
- ◆ A description of any alternative methods for achieving the purpose of the proposed rule that the Department seriously considered and the reasons why they were rejected in favor of the proposed rule.

When a rule has a substantial impact on small business, the regulatory analysis must contain a discussion of whether it would be feasible and practicable to do any of the following to reduce that impact:

- ◆ Establish less stringent compliance or reporting requirements in the rule for small business.
- ◆ Establish less stringent schedules or deadlines in the rule for compliance or reporting requirements for small business.
- ◆ Consolidate or simplify the rule's compliance or reporting requirements for small business.
- ◆ Establish performance standards to replace design or operational standards in the rule for small business.
- ◆ Exempt small business from any or all requirements of the rule.

“Small business” means any entity to which all of the following apply:

- ◆ It is not an affiliate or subsidiary of an entity dominant in its field of operation.
- ◆ It has either 20 or fewer full-time equivalent positions or less than one million dollars in annual gross revenues in the preceding fiscal year.

This includes, but is not limited to, an individual, partnership, corporation, joint venture, association, or cooperative. For purposes of this definition:

- ◆ “Dominant in its field of operation” means having more than 20 full-time equivalent positions and more than one million dollars in annual gross revenues.
- ◆ “Affiliate or subsidiary of an entity dominant in its field of operation” means an entity that is at least 20 percent owned by:
 - An entity dominant in its field of operation, or
 - Partners, officers, directors, or majority stockholders of an entity dominant in that field of operation (or their equivalent).

Each regulatory analysis must include quantifications of the data to the extent practicable and must take account of both short-term and long-term consequences.

Review of Rules

Legal reference: 441 IAC 3.16(17A)

Any interested person, association, agency, or political subdivision may submit a written request to the governor's administrative rules coordinator to conduct a formal review of a specified rule.

If the governor's administrative rules coordinator approves the request, the Department will conduct a formal review of a specified rule to determine whether the Department should adopt a new rule instead or should amend or repeal the rule. The Department may refuse to conduct a review if it has conducted a review of the specified rule within five years before the filing of the written request.

In conducting the formal review, the Department must prepare within a reasonable time a written report summarizing its findings, its supporting reasons, and any proposed course of action. The report shall:

- ◆ Include a concise statement of the Department's findings regarding the rule's effectiveness in achieving its objectives, including a summary of any available supporting data.
- ◆ Concisely describe significant written criticisms of the rule received during the previous five years, including a summary of any requests for exceptions to the rule received by the Department or granted by the Department.
- ◆ Describe:
 - Alternative solutions to resolve the criticisms of the rule.
 - The reasons the Department rejected those solutions.
 - Any changes made in the rule in response to the criticisms.
 - The reasons for the changes.

The Department sends a copy of report to the Administrative Rules Review Committee and the administrative rules coordinator. The report is also available for public inspection.

PETITION FOR RULE MAKING

Legal reference: 441 IAC Chapter 4

Any person or agency may file a petition for rule making with the Department by sending a petition to the Office of Policy Analysis in central office. The petition must:

- ◆ Be typewritten or legibly handwritten in ink.
- ◆ Be dated and signed by the petitioner or the petitioner’s representative.
- ◆ Substantially conform to the following form:

BEFORE THE DEPARTMENT OF HUMAN SERVICES	
Petition by (name of petitioner) for the (adoption, amendment, or repeal) of rules relating to (state subject matter)	PETITION FOR RULE MAKING

The petition must provide the following information:

- ◆ A statement of the specific rule-making action sought by the petitioner, including the text or a summary of the contents of the proposed rule or amendment to a rule. If the petition is to amend or repeal a rule, the statement shall include:
 - A citation.
 - The relevant language of the particular portion or portions of the rule proposed to be amended or repealed.
- ◆ A citation to any law deemed relevant to the Department’s authority to take the action urged or to the desirability of that action.
- ◆ A brief summary of the petitioner’s arguments in support of the action urged in the petition.
- ◆ A brief summary of any data supporting the action urged in the petition.
- ◆ The names and addresses of other persons (or a description of any class of persons) the petitioner knows to be affected by or interested in the action urged in the petition.
- ◆ Any request by petitioner for a meeting.
- ◆ The name, mailing address, and telephone number of the petitioner and the petitioner’s representative.

The petition must also indicate the person to whom the Department should direct communications about the petition. The petitioner may attach a brief to the petition in support of the action urged in the petition. The Department may request a brief from the petitioner or from any other person concerning the substance of the petition.

Petitions are deemed filed when received by the Office of Policy Analysis. Make any inquiries concerning the status of a petition for rule making to Policy Analysis. Policy Analysis will provide the petitioner with a file-stamped copy if the petitioner provides the Department an extra copy for this purpose.

Within five working days after the filing of a petition, the Department must submit a copy of the petition and any accompanying brief to the administrative rules coordinator and the Administrative Rules Review Committee.

The Department may deny a petition because it does not substantially conform to the required form.

The following sections give more information on:

- ◆ Review of the petition
- ◆ Decision on the petition

Review of Petition

Legal reference: 441 IAC 4.4(1)

Upon request by the petitioner in the petition, the Department must schedule a brief and informal meeting between the petitioner and the Department to discuss the petition. The Department may request the petitioner to submit additional information or arguments concerning the petition.

The Department may also solicit comments from any person on the substance of the petition. Also, any person may submit to the Department comments on the substance of the petition.

Decision on Petition

Legal reference: 441 IAC 4.4(2) and (3)

Within 60 days after the filing of the petition, or within any longer period agreed to by the petitioner, the Department must grant or deny the petition.

To grant the petition, the Department must notify the petitioner in writing that it has instituted rule-making proceedings on the subject of the petition. The petitioners are deemed notified of the denial or granting of the petition on the date when the Department mails or delivers the required notification to the petitioner.

To deny the petition, the Department must notify the petitioner in writing of its action and the specific grounds for the denial. When the Department denies a petition because it does not substantially conform to the required form, the petitioner may file a new petition on the same subject.

DECLARATORY ORDERS

Legal reference: 441 IAC Chapter 5

Any person may file a petition with the Department for a declaratory order as to the applicability of any statute, rule, or order within the primary jurisdiction of the Department.

The petition must be typewritten or legibly handwritten in ink and must substantially conform to the following form:

BEFORE THE DEPARTMENT OF HUMAN SERVICES	
Petition by (name of petitioner) for a Declaratory Order on (cite provisions of law involved)	PETITION FOR DECLARATORY ORDER

Exception: A person may request an application of agency policy to specific facts by submitting a letter. The letter should recite all pertinent facts.

The petition must provide the following information:

- ◆ A clear and concise statement of all relevant facts on which the order is requested. For public assistance policy rulings, the request should state facts such as the amount of income and resources of a person who may be affected by the policy.
- ◆ A citation and the relevant language of the specific statutes, rules, or orders whose applicability is questioned, and any other relevant law.
- ◆ The questions the petitioner wants answered, stated clearly and concisely.
- ◆ The answers to the questions desired by the petitioner and a summary of the reasons urged by the petitioner in support of those answers. The Department will deny requests that seek to change rather than to declare policy.
- ◆ The reasons for requesting the declaratory order and disclosure of the petitioner's interest in the outcome.
- ◆ A statement indicating whether the petitioner is currently a party to another proceeding involving the questions at issue.
- ◆ A statement indicating whether, to the petitioner's knowledge, those questions have been decided by, are pending determination by, or are under investigation by any governmental entity.
- ◆ The names and addresses of other persons (or a description of any class of persons), the petitioner knows to be affected by or interested in the questions presented in the petition.
- ◆ Any request by the petitioner for a meeting.
- ◆ The petitioner's state identification number, if applicable.

The petitioner or any intervenor may file a brief to the petition in support of the position urged in the petition. The Department may request a brief from the petitioner or from any other person concerning the questions raised in the petition.

DECLARATORY ORDERS

Review of Petition

Revised June 8, 1999

Iowa Department of Human Services
Title 1 General Departmental Procedures
Chapter B Policy Development

The petition must:

- ◆ Be dated and signed by the petitioner or the petitioner's representative.
- ◆ Include the name, mailing address, and telephone number of the petitioner and the petitioner's representative.
- ◆ Indicate the person to whom the Department should direct communications about the petition.

The petitioner must send the petition to the Office of Policy Analysis in the Hoover Building. Petitions are deemed filed when received by Policy Analysis. Policy Analysis will provide the petitioner with a file-stamped copy if the petitioner provides the Department an extra copy for this purpose. The petitioner should make any inquiries concerning the status of a petition for a declaratory order to Policy Analysis.

If the petitioner has not served notice on everyone required by law to be notified, the Department will give notice of the petition to those not served by the petitioner. The Department will issue these notices within five working days of receiving the petition.

The following sections explain procedures for:

- ◆ Review of the petition
- ◆ Making a decision on the petition

Review of Petition

Legal reference: 441 IAC 5.7(17A)

If the petitioner requests it in the petition, the Department shall schedule a brief and informal meeting between the petitioner and the Department to discuss the questions raised. The Department may request the petitioner to submit additional information or argument concerning the petition.

The Department may solicit comments from any person on the questions presented in the petition. Also, any person may submit comments on those questions to the Department.

Decision on Petition

Legal reference: 441 IAC 5.8(17A) and 5.10(17A)

Within 30 days after the filing of the petition, the Department must either issue a ruling on the petition in writing or refuse to do so. The Department is deemed to have issued an order or to have refused to do so on the date the Department mails or delivers the order or refusal to petitioner. A declaratory order is effective on the date of issuance.

In addition to the order itself, a declaratory order must contain:

- ◆ The date of its issuance,
- ◆ The name of petitioner,
- ◆ The specific statutes, rules, policies, decisions, or orders involved,
- ◆ The particular facts upon which it is based, and
- ◆ The reasons for its conclusion.

Good Cause for Refusal to Issue Order

Legal reference: 441 IAC 5.9(17A)

The Department may refuse to issue a declaratory order for good cause. Good cause includes, but is not limited to, the following reasons:

- ◆ The petition does not substantially comply with the required form.
- ◆ The petition does not contain facts sufficient to demonstrate that the petitioner will be aggrieved or adversely affected by the failure of the Department to issue an order.
- ◆ The Department does not have jurisdiction over the questions presented in the petition.
- ◆ The questions presented by the petition are also presented in a current rule making, contested case, or other Department or judicial proceeding that may definitively resolve them.
- ◆ The questions presented by the petition would more properly be resolved in a different type of proceeding or by another body with jurisdiction over the matter.

DECLARATORY ORDERS

Decision on Petition

Revised June 8, 1999

Iowa Department of Human Services
Title 1 General Departmental Procedures
Chapter B Policy Development

- ◆ The facts or questions presented in the petition are unclear, over broad, insufficient, or otherwise inappropriate as a basis upon which to issue an order.
- ◆ There is no need to issue an order, because the questions raised in the petition have been settled due to a change in circumstances.
- ◆ The petition is not based upon facts calculated to aid in the planning of future conduct, but is instead based solely upon prior conduct, in an effort to establish the effect of that conduct or to challenge a Department decision already made.
- ◆ The petition requests a declaratory order that would necessarily determine the legal rights, duties, or responsibilities of other persons:
 - Who have not joined in the petition or filed a similar petition and
 - Whose position on the questions presented may fairly be presumed to be adverse to that of the petitioner.
- ◆ The petitioner requests the Department to determine whether a statute is unconstitutional on its face.

A refusal to issue a declaratory order must indicate the specific grounds for the refusal and constitutes final Department action on the petition.

Refusal to issue a declaratory order pursuant to this provision does not preclude the filing of a new petition that seeks to eliminate the grounds for the Department's refusal to issue an order.

Effect of Declaratory Order

Legal reference: 441 IAC 5.12(17A)

A declaratory order has the same status and binding effect as a final order issued in a contested case proceeding. It is binding on the Department, the petitioner, and any intervenors who consent to be bound.

The order applies only in circumstances where the relevant facts and the law involved are indistinguishable from those on which the order was based. As to all other persons, a declaratory order serves only as precedent and is not binding on the Department. The issuance of a declaratory order constitutes final Department action on the petition.

EXCEPTIONS TO POLICY

Legal reference: 441 IAC 1.8(217)

The director of the Department may grant exceptions to the Department's rules in individual cases upon the director's own initiative or upon request.

The Department cannot write policies to cover all factual circumstances for every situation that may arise, particularly in light of cost-saving efforts in the administration of public assistance programs. By making exceptions, the Department can sensibly decide the public interest with respect to extraordinary situations. Occasionally, practices that are not generally cost-effective, and therefore are not Department policy, prove to be less costly than an approved practice.

The following sections explain:

- ◆ Procedures for completing a request for exception
- ◆ Factors considered in granting exceptions
- ◆ Decisions on granting exceptions
- ◆ Interaction between exceptions and appeals

Completion of Request

Legal reference: 441 IAC 1.8(1)“a,” “c,” “d”

Any person or agency may file a request for an exception with the Department. To file a request for an exception, the person or agency shall submit the request in writing to the Appeals Section. The request may be made on form 470-3888, *Petition for Exception to Policy*, but the use of this form is not mandatory. The Appeals Section sends an immediate acknowledgement of the request to the requester.

Ordinarily the person desiring the exception shall prepare the request. If a person asks for help in preparing a request, assist the person. If you believe that an exception to policy is warranted, but the client is unable to make the request and has no representative, you may prepare a request on the client's behalf. Requests may also originate at the division level (for example, to settle a lawsuit).

EXCEPTIONS TO POLICY

Completion of Request

Revised June 8, 1999

A request for an exception should include the following information, where applicable and known to the requester:

- ◆ The name, address, and case number or state identification number of the person or entity for whom an exception is being requested and of the person requesting the exception, if different.
- ◆ The specific rule to which an exception is requested (or the substance of the rule).
- ◆ The specific exception requested.
- ◆ Facts relevant to the factors to be considered in granting the exception. (Refer to the following section for information on factors that are considered.)
- ◆ A history of the Department's action on the case.
- ◆ Any information the requester has about the Department's treatment of similar cases.
- ◆ The name, address, and phone number of any person inside or outside the Department with knowledge of the matter or for which the exception is being requested.
- ◆ Releases of information authorizing persons with knowledge regarding the request to furnish the Department information pertaining to the request.

Factors Considered in Granting Exceptions

Legal reference: 441 IAC 1.8(2)

Exceptions are granted at the complete discretion of the director after consideration of all relevant factors. These include, but not limited to, the following:

- ◆ The need of the person or entity directly affected for the exception. (Exceptions are granted only in cases of extreme need.)
- ◆ Whether there are exceptional circumstances justifying an exception to the general rule applicable in otherwise similar circumstances.
- ◆ Whether granting the exception would result in net savings to the state or promote efficiency in the administration of programs or service delivery. (Net savings or efficiency makes an exception more likely.)
- ◆ In the case of services, assistance, or grants, whether other possible sources have been exhausted. (Exceptions are not generally granted if other sources are available.)
- ◆ The cost of the exception to the state and the availability of funds in the Department's budget.

Decisions on Exceptions

Legal reference: 441 IAC 1.8(1)“d,” “h”

The Department must grant or deny all requests for exceptions within 120 days of receipt.

After logging the request, the Appeals Section requests a recommendation on the exception from the applicable division and from the applicable regional administrator, if the region did not submit the request.

The division and the regional office shall complete a recommendation on the requested exception and return it to the Appeals Section. The field does not make recommendations on the medical necessity of an item or service. However, the field does have input on requests for nursing services and organ transplants. This allows the field to coordinate services to meet the client’s needs.

After review of the recommendation, the Appeals Section submits the request to the director for a decision on whether to grant or deny the exception.

Following the director’s decision, the Appeals Section sends the decision to the requester and to the applicable division and county and regional offices. If approved, the applicable field office or division shall implement the exception.

The Appeals Section maintains a deidentified record of exceptions granted and denied, indexed by rule. This record is available for public inspection.

Interaction With Appeals

Legal reference: 441 IAC 1.8(1)“b,” “e,” “f,” and “g”

A denial of a request for an exception is absolutely final and is not appealable under the Department’s appeal procedures.

A request for an exception is independent from a Departmental appeal. However, a person may combine a request for an exception with a request for a review of a proposed decision.

EXCEPTIONS TO POLICY

Interaction With Appeals

Revised June 8, 1999

Iowa Department of Human Services
Title 1 General Departmental Procedures
Chapter B Policy Development

A request for an exception made before an appeal may be denied pending the appeal hearing to develop conclusions about factual matters.

A request for an exception does not delay the time to request an appeal or for filing a petition for judicial review of a final decision in a contested case.

A person requesting an exception does not have to exhaust administrative remedies before seeking judicial review of the Department action.

POLICY MANUALS

The Department of Human Services maintains a written record of its official policies and procedures in the Employees' Manual, the Management Manual, and the State Handbook of Procedure. The Department tries to publish policies and procedures ten working days before staff need to apply them.

Regional, area, and local offices maintain complete copies of the current Employees' Manual and Management manuals, as do the Office of Policy Analysis and the Bureau of Operations Services. Satellite offices, child support offices, institutions, and in other central office locations maintain current copies of parts of the manuals. (See **Internal Distribution**.)

The Office of Policy Analysis maintains obsolete manual material permanently.

Employees' Manual

The Department of Human Services Employees' Manual is the official interpretation of the federal laws and regulations and the state laws and rules relating to the programs administered by the Department of Human Services.

The purpose of the manual is to present Department policies and procedures for program administration in a centralized and usable form. The manual provides the official record of the Department's interpretation of the policies adopted in its rules and authorizing legislation.

The manual is organized into titles by program area, as follows:

Title 1	General Departmental Procedures
Title 3	Mental Health and Developmental Disabilities
Title 4	Family Investment Program
Title 5	Centrally Administered Programs
Title 6	Other Income Maintenance Programs
Title 7	Food Stamps
Title 8	Medicaid
Title 9	Child Support Administration and Location
Title 10	Support Establishment and Modification
Title 11	Support Enforcement and Distribution
Title 12	Licensing and Approval Standards
Title 13	Social Service Resources
Title 14	Management Information
Title 15	Grant/Contract/Payment Administration
Title 16	Individual, Family Support, and Protective Services
Title 17	MR/MI/DD Local Services
Title 18	Child Welfare Services

This organization is substantially similar to that of the Department's administrative rules. Within each title, chapters are labeled alphabetically. In some cases, there are subchapters labeled with the alphabetical designation and a parenthetical number. (See the Employees' Manual table of contents.) Within each chapter, the material is organized by topic (see tables of contents for each chapter).

An appendix to the chapter or to the title as a whole contains forms, tables, and handbooks used in the program. The Department also publishes an index of the forms contained in the Employees' and Management Manual.

Employees of the Department use the Employees' Manual as the instructions to follow in administering the programs of the Department. The manual gives overall policy but does not cover all details in every type of case that could arise. The policies are general enough to apply to most situations.

For procedures for a person from outside the Department to obtain a decision on the effect of a particular policy, see **DECLARATORY ORDERS**. For procedures for Department staff to obtain guidance on the correct application of a policy, see **REQUESTS FOR POLICY CLARIFICATION**.

Management Manual

The Department of Human Services Management Manual is the official record of the Department's policies for its internal administration and management. As with the Employees' Manual, the purpose of the Management Manual is to present policies and procedures in a centralized and usable form.

The Management Manual gives the Department's interpretation and application of policies applicable to all state agencies and of internal administration issues specific to the Department. It is organized into titles by administrative area, as follows:

Title 20	General Management
Title 21	Personnel Management
Title 23	Financial Management
Title 24	Office Management

The material in each title is organized into chapters that are labeled alphabetically. (See tables of contents for the Management Manual or for specific titles.) Material within a chapter is organized by topic headings.

Since the material deals with internal procedures, there are usually no rule references for the policy statements. (The Iowa Administrative Procedures Act does not require agencies to adopt rules about policies that do not affect the rights or obligations of the public.)

Appendices to the chapters contain forms, handbooks, etc. The Department also publishes a forms index for the Employees' Manual and Management Manual.

State Handbook of Procedure

Policies and procedures that affect only staff in the Department's central administrative office are issued in the State Handbook of Procedure.

The State Handbook of Procedure serves as a desk handbook for central office staff. It is organized into titles by topic as follows:

Title 30	General Central Office Procedures
Title 31	Child Support
Title 33	Medicaid
Title 34	Services

Some material remains in a former system of issuance that is organized as follows:

Section XXX	Administrative Services Procedures
Section XXXI	Medical Services
Section XXXII	Family and Children's Services Procedures
Section XXXIII	Accounts and Audits Procedures

Methods of Issuance

The Department uses three kinds of letters to issue policy and related material:

- ◆ General letters
- ◆ Manual letters
- ◆ Circular letters

General Letters

“General letters” transmit chapters, portions of chapters, indexes, and tables of contents. The general letter:

- ◆ Summarizes the changes contained in the material.
- ◆ Sets the effective date.
- ◆ Explains how staff or providers should implement the changes.
- ◆ Identifies the old material that is superseded.
- ◆ Indicates whom to contact to obtain further information concerning the material.

When forms are transmitted, the general letter also tells how to get a supply of the form and, for a revised form, whether to use up or destroy any remaining supply of the previous version.

Each chapter, subchapter, and appendix has a separate series of general letters, as do the tables of contents for each title and the forms indexes.

General letters are numbered with:

- ◆ The Arabic numeral corresponding to the title number,
- ◆ The letter designation of the chapter,
- ◆ A sequence number representing the letter's place in the history of revisions to the chapter or appendix.

For example, General Letter Number 14-B(9)-22 is the twenty-second letter issuing new or revised material in Chapter B(9) of Title 14.

The pages of manual material transmitted by a general letter are dated to correspond to the date on the letter. This date is the official release date of the material, and is usually earlier than the actual effective date of the material. (**Exception:** In Medicaid provider manual, the pages are dated with the effective month and year of the change.)

The general letter itself is not a part of the manual and users do not have to keep it, unless they need to have a record of when changes were implemented. (General letters are maintained on the on-line manual files.) The Office of Policy Analysis maintains a complete file of general letters.

The material transmitted by the general letter remains in effect until superseded by another general letter.

Manual Letters

“Manual” letters transmit policy and procedure that would ordinarily be a part of the manual. Occasionally due to time constraints, policy staff cannot incorporate changes into the existing manual until after they should be in effect. The manual letter:

- ◆ Explains the changes in policy or procedure.
- ◆ Sets the effective date.
- ◆ Gives instructions for implementation.
- ◆ Tells who to contact for more information.

Manual letters are printed on blue paper. (Before March 1985, manual letters were on cherry-colored paper, but that color was changed because it does not photocopy well.)

Manual letters are usually numbered with:

- ◆ The Arabic numeral designating the title (or a Roman numeral on older letters),
- ◆ The alphabetical designation of the chapter,
- ◆ A sequence number indicating the letter’s place in the history of letters issued for that chapter.

In some cases, the changes transmitted by the manual letter affect several chapters in a title instead of just one. The numbers of these letters use the designation “zero” instead of the chapter letter designation, and the sequence numbers are part of a separate series.

Users must retain manual letters in the manual until a general letter or another manual letter supersedes them. File manual letters after the table of contents for the chapter or the title.

Circular Letters

Official issuances of informational material, such as brochures or announcements, or material that has only temporary value, such as instructions for special reports, are done through circular letters. The circular letter:

- ◆ Explains the instructions or introduces the informational material attached.
- ◆ Gives instructions for its use.
- ◆ Tells who to contact for more information.

When the circular letter series was started, the Department assigned a sequential Arabic number to each new topic when letters were prepared for release. This number is followed by the initials of the issuing division.

For subsequent letters on the same topic, an alphabetical character is added to the initial number. When the letters of the alphabet are exhausted, a second Arabic number is added in the middle to register the sequence. Thus current letters have three-part numbers.

Only a few of the series are still being used:

- ◆ Series 24 designates letters about the state hospital schools.
- ◆ Series 26 designates letters about the mental health institutes.
- ◆ Series 27 designates letters about the Family Investment Program.
- ◆ Series 47 designates issuances about Food Stamps.
- ◆ Series 56 is used to issue pamphlets and brochures about Department programs.
- ◆ Series 83 designates issuances related to social services programs.
- ◆ Series 127 designates issuances related to child support recovery.
- ◆ Series 143 (Med) designates information about the Medicaid program.

File circular letters separately from the rest of the manual, in numerical order. They remain in effect until superseded by a general letter, a manual letter, or another circular letter. The Office of Policy Analysis issues a circular letter in the 1Z series annually to give a list of the current circular letters and to obsolete out-of-date letters.

Internal Distribution

Each regional, area, and local office shall maintain one complete printed copy of the Employees' Manual and the Management Manual. Offices that occupy more than one location or more than one floor should have a complete manual for each location or floor. (Less-than-full-time offices receive manual through the distribution for the supervising area or local office.)

With supervisory approval, offices can order all manual for any worker. Exceptions:

- ◆ Distribution of Medicaid provider manuals is limited to a maximum of two per office.
- ◆ Distribution of PROMISE JOBS provider manuals is limited to one per office.
- ◆ Distribution of the IM forms appendix is limited to approximately one for every four IM positions.

Offices that wish to limit distribution to individual workers further may do so. However, they must provide workers with training and access to the applicable manual sections.

Each office shall designate one person as the manual clerk. This person is responsible for:

- ◆ Keeping track of the manual distribution for the office.
- ◆ Submitting changes in distribution to the Bureau of Operations Services.
- ◆ Distributing manual.
- ◆ Checking monthly distribution lists to ensure that the office received requested manual.
- ◆ Ordering manuals from the Bureau of Operations Services.
- ◆ Keeping manuals in the office up to date, according to local procedures.

Distribution of Printed Manuals

Manual distribution is controlled by a computer file maintained by the Bureau of Operations Services. The system assigns each distribution point a record number. All manual requested for staff at that location is registered on the computer system under that number.

The manual clerk is responsible for keeping a list of the manual going to each staff person at the location. Each office is responsible for submitting changes in its distribution for entry. Develop manual orders in consultation with the program supervisors to ensure that the requested manuals are essential to the worker's job duties.

For each distribution date, the Bureau of Operations Services enters a list of the pieces being issued into the computer. This generates a set of mailing labels showing the number of copies of each piece to be issued to that office. Operations staff count out the order for each office and ship it by courier.

Manual distribution is scheduled to begin on Tuesday each week. The distribution is filled in the following sequence: regional offices, county offices, child support offices, institutions, and central office. Operations Services makes every effort to get the manual to all Department offices by the end of each week.

Offices can order additional copies of a chapter or appendix from the Bureau of Operations Services using form 470-0043, *Manual Order Blank* (Adm-2103). This is also true for general letters issued within the last six months. See XXIII-K for instructions.

Advance Copies

The Department may issue advance copies when material has been officially approved and must be transmitted quickly because:

- ◆ A court order, federal regulation, state law or other legislative action requires immediate implementation.
- ◆ A decision on policy has been delayed pending approval by higher authority and now requires immediate implementation.

Policy staff sometimes send draft copies of manual material to field staff for training or information. Draft copies are not officially approved. Staff should not implement the policies and procedures in them.

Before advance copies of manual material are released, the material must be approved by the issuing division administrator and the Office of Policy Analysis.

Advance copies are usually made available on the network in the “Advance” folder on the rules share (HOOVR3S1). Destroy the advance copy when you receive the printed copy.

Manual Checklists

To assist offices in keeping manuals updated, the Office of Policy Analysis provides two services. The On-Line Manual contains a monthly checklist of manual under “Reference.” A current list of all Circular Letters is also available on the On-Line Manual.

A list of all current manual pages and dates the pages were issued is available on the HOOVR3S1 server, rules share, “manualck” directory.

Department staff can use these lists to check and update manuals and to ensure timely receipt of all applicable manual. Each office shall distribute the monthly checklist to each employee responsible for maintaining any portion of the manual.

Offices can order missing revisions by general letter number from the Bureau of Operations Services if they were issued in the last six months. Obtain missing pages that are older than that by photocopying a manual that is up to date.

Changes in Distribution

Each office is responsible for informing the Bureau of Operations Services of needed changes in manual distribution.

Office supervisors determine what manual workers need. When there is turnover in staff, it is important that workers’ manuals are kept current, or at least that manual revisions are saved for later filing. If offices order new manual each time there is a change in workers, it is difficult for the Bureau of Operations Services to maintain an adequate supply.

The printing coordinator in the Bureau of Operations Services can generate an order form showing the number of copies of each chapter and appendix issued to a given location. The manual clerk marks the desired changes on the printout and returns it to the printing coordinator for system entry.

On-Line Manual

In addition to the distribution of printed manuals, parts of the manual are also available to Departmental staff on line. The Office of Policy Analysis generates updates to the on-line manual weekly, after the manual changes have gone to print.

The Division of Data management distributes updates to all Department servers each weekend. Updates should be available to staff on Monday mornings. (This is usually the day before the printed change is distributed, but may be a week or more before the printed change goes out.)

Changes to the on-line manual chapters are announced through general letter tables. The Department maintains separate tables for income maintenance manual, services manual, child support manual, Medicaid provider manual, and administrative manual. Each table shows the 30 most recent general letters and is linked to the letter and the updated pages.

If the material has a specific effective date, the changes are not incorporated into the on-line chapters until the weekend before the effective date. When the change is incorporated, the general letter transmitting that change is added to the end of the file. Manual letters are indicated by a “note” on the chapter’s title page, and are shown in the file immediately after the title page.

All of the on-line manual chapters and the Department’s rules (but not the reference tables or form texts) are accessible through the automated search program of the on-line manual.

Access to the on-line manual requires special software on the user’s computer. Contact your system support worker or personal computer coordinator if you need to have the software installed. There is a user’s guide available as part of the reference material in the on-line manual.

Other reference material includes:

- ◆ Indexes identifying location of forms instructions and samples,
- ◆ A list of current circular letters, and
- ◆ Lists of the manual issued in each of the previous two months.

Availability to the Public

Legal reference: 441 IAC 9.3(17A,22); 7 CFR 272.1(d); 42 CFR 431.18(c)

Department manuals are public records and are available for public inspection and copying. See I-C, **REQUEST FOR ACCESS TO RECORDS** and **RESPONSE TO REQUEST**, for general policies on the availability of public records. These policies, including the fee provisions, apply to requests for Department manuals.

Federal regulations in the Food Stamp Program require the availability of state policy handbooks at each certification office, at the state agency headquarters, and at the USDA Food and Nutrition Service Regional Office.

Federal Medicaid regulations require the Department to maintain copies of current policies that affect the public in all its offices. This includes those that govern eligibility, provision of medical assistance, covered services, and recipient rights and responsibilities.

Each local, area, and regional office shall keep one complete copy of the Employees' Manual available for examination during regular office hours. The office staff shall assist any person who examines the manual in interpreting or clarifying the material.

Upon request, staff shall provide a Department client, or a client's representative, manual sections pertinent to a specific Department decision. This may help the client to determine whether to request an appeal hearing or to prepare for a hearing. Provide appeal-related material without charge.

Subscription to Employees' Manual

Legal reference: 441 IAC 9.3(7)“e”; 42 CFR 431.18(d), (e), and (g)

Subscriptions to all or part of the Department's Employees' Manual are available through the Office of Policy Analysis.

Federal Medicaid regulations require the Department to provide copies of its current policies to the following, either without charge or at a charge related to the cost of reproduction:

- ◆ Public and university libraries.
- ◆ Local and district offices of the Bureau of Indian Affairs.

- ◆ Welfare and legal services offices.
- ◆ Other entities that:
 - Request the material in order to make it accessible to the public.
 - Are centrally located and accessible to a substantial number of the recipient population they serve.
 - Agree to accept responsibility for filing all amendments or changes forwarded by the agency.

Address requests for subscription information to the Office of Policy Analysis, Department of Human Services, Hoover Building, Des Moines, Iowa 50319-0114.

Those wishing to subscribe to all or part of the Employees' Manual shall complete the external manual order form or provide the requested information in some comparable format. The Department asks agencies with multiple sites to receive all of their manual at one address.

REQUESTS FOR POLICY CLARIFICATION

Central office responds to requests for policy clarification using 470-0016, *Clarification Request* (Adm-4209).

When a response has statewide application, the form is marked "interpretation." These responses are "interpretive memos." An interpretive memo is an official issuance used to prescribe the application of Department policy when the wording of the policy is not adequate to provide clear direction. However, an interpretive memo cannot be used to establish or revise policy.

Interpretive memos are published statewide and are indexed by the originating division. As official issuances of the Department, use these memos as a guide to action in other cases with similar circumstances.

Responses that do not require statewide application are marked "clarification." These responses are issued to all benefit payment administrators or service administrators only. **Exception:** Responses relating to the provisions of a specific trust or conservatorship are made only to the requesting regional office.

REQUESTS FOR POLICY CLARIFICATION

Format for Requests

Revised June 8, 1999

Iowa Department of Human Services
Title 1 General Departmental Procedures
Chapter B Policy Development

Examples of clarifications include applications of policy to complex case situations deemed to be too rare or too obscure to serve as a basis for state-wide application. These responses are distributed to regional staff for their information. Attachments with identifying information are not distributed with the response. Clarifications are not indexed.

The following sections give more information on:

- ◆ The format for submitting a request for policy clarification.
- ◆ Requirements for preparing and distributing a policy interpretation or clarification.
- ◆ Availability of responses.

Format for Requests

Submit questions concerning policy application that require consideration by central office program staff on form 470-0016, *Clarification Request* (Adm-4209-0). Also use the *Clarification Request* for questions and responses relating to specific case situations, including trusts and conservatorships.

Field units, institutions, other central office units, agencies outside the Department, recipients, or other people may ask questions concerning policy application. When supervisors in the county office cannot answer a question, submit it to the regional office.

The regional specialists, benefit payment administrator, or service administrator shall answer the question if possible. If regional office staff find that the wording of the current Department policy is not adequate to provide clear direction, direct the request to the appropriate bureau in central office. Regional staff may confer with central office program staff to make this determination.

All requests shall follow normal channels of communication, i.e., from the county office or institution, through the regional office, to the central office program bureau. (Requests from outside the Department are sometimes made directly to central office program staff.) Requests must contain the appropriate signatures as indicated on the *Clarification Request*. (See I-B-Appendix for instructions.)

The wording of the request shall not contain any personally identifiable information, even when the request concerns a particular client. (Responses to requests are not confidential.) For requests for evaluation of trusts and conservatorships, leave the names on the legal documents to allow proper interpretation.

Preparation and Distribution of Response

The title of each response shall relate to a Manual heading. List the title, chapter and page of the main policy reference and related references.

The division issuing the interpretive memo shall assign a number to each memo. The number shall indicate the issuing division (e.g., EA for Economic Assistance), the manual title, the calendar year, and a sequence number for that calendar year.

For example, EA-VII-99-2 means that the interpretive memo was the second issued by the Economic Assistance Food Stamps Bureau in 1999. The division may choose to add the chapter designation to the number.

The division distributes interpretive memos to each location involved in the application of the policy. This includes regional and county offices and institutions, Department of Inspections and Appeals, the Office of Program Evaluation (for benefit payment interpretation), the Appeals Section, and the Office of Policy Analysis.

Annually, in October, each division shall issue a complete list of current interpretive memos issued by that division. In April, each bureau shall review the accumulated memos and issue a list of interpretations that are obsolete and should be destroyed and of new memos issued since the last annual list.

Availability

The division shall maintain a file containing all issued interpretive memos that is available for public review. Each regional office shall maintain a file of all current interpretive memos, which shall be available for public review. File the memos in sequence according to the title, chapter and page of the primary manual reference.

The issuing division will provide copies of individual interpretive memos upon written request.

Distribution and filing of clarifications are at the discretion of the regional office. Make clarifications available on request.



THOMAS J. VILSACK, GOVERNOR
SALLY J. PEDERSON, LT. GOVERNOR

DEPARTMENT OF HUMAN SERVICES
JESSIE K. RASMUSSEN, DIRECTOR

June 8, 1999

GENERAL LETTER NO. 1-B-14

ISSUED BY: Office of Policy Analysis

SUBJECT: Employees' Manual, Title 1, Chapter B, *Policy Development*, Title page, revised; Contents (pages 1 and 2), revised; pages 1 through 38, revised; and page 39, new.

Summary

The Policy Development chapter has been updated to the new manual format. Changes have been made throughout the manual to reflect changes in the rule-making process mandated by the passage of 1998 Iowa Acts, chapter 1202, and to update policies and procedures.

Effective Date

July 1, 1999

Material Superseded

Remove the entire Chapter B from Employees' Manual, Title I, and destroy it. This includes:

<u>Page</u>	<u>Date</u>
Title page	January 3, 1989
Contents (pages 1 and 2)	January 3, 1989
1-38	January 3, 1989

Additional Information

Refer questions about this general letter to your regional benefit payment, service, or collections administrator.



March 5, 2002

GENERAL LETTER NO. 1-B-15

ISSUED BY: Office of Policy Analysis

SUBJECT: Employees' Manual, Title 1, Chapter B, *POLICY DEVELOPMENT*, Contents (page 1), revised, and pages 4 through 8 and 23, revised.

Summary

Employee's Manual 1-B is revised to reflect that:

- ◆ The rules docket and notices of intended rulemaking for the Department are now available on the Internet at www.dhs.state.ia.us/policyanalysis.
- ◆ An exception to policy can be requested by completing form 470-3888, *Petition for Exception to Policy*. Use of this form is optional. Customers may still request an exception to policy on their own, without using the form.

This form is available to Department staff as a template in the public forms folder on Outlook. When a customer requests a copy of the form, generate a copy from for the customer to complete.

Effective Date

Upon receipt.

Material Superseded*

Remove the following pages from Employees' Manual, Title 1, Chapter B, and destroy them:

<u>Page</u>	<u>Date</u>
Contents (p. 1)	June 8, 1999
4-8, 23	June 8, 1999

Additional Information

Refer questions about this general letter to your regional administrator, superintendent, or area manager or designee.