

HUMAN SERVICES DEPARTMENT [441]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code sections 217.6 and 249A.4 and 2004 Iowa Acts, chapter 1175, section 112, the Department of Human Services adopts new Chapter 91, “Medicare Drug Subsidy,” Iowa Administrative Code.

These amendments provide for state eligibility determination for a federal subsidy to reduce or eliminate costs associated with the Medicare drug benefit created by Public Law 108-173, the Medicare Modernization Act of 2003. Under this legislation, state Medicaid agencies are required to accept applications for the Medicare drug subsidy, determine eligibility, and maintain cases for applicants who are determined eligible.

The subsidy itself is administered by the Social Security Administration and is not part of the Medicaid program. The Social Security Administration refers to the subsidy as “extra help for Medicare prescription drug costs.” The subsidy is intended to assist low-income people with payment for premiums, copayments, deductibles, and coverage gaps in the new Medicare Part D benefit that is scheduled to take effect on January 1, 2006.

These amendments do not provide for waivers in specified situations. Individuals who believe themselves disadvantaged by these procedural requirements may request a waiver under rule 441--1.8(17A,217). The Department has no authority to waive federal eligibility standards for the subsidy.

The Council on Human Services adopted these amendments on June 15, 2005.

2004 Iowa Acts, chapter 1175, section 112(6), allows the Department to adopt emergency rules if necessary to comply with federal Medicaid requirements. In compliance with Iowa Code section 17A.4(2), the Department finds that notice and public participation are impracticable because federal regulations require states to have an eligibility determination process in place by July 1, 2005.

The Department finds that these amendments confer a benefit on the public by providing another avenue to qualify for a Medicare drug benefit subsidy. Therefore, these amendments are filed pursuant to Iowa Code section 17A.5(2)"b"(2), and the normal effective date of these amendments shall be waived.

These amendments are also published herein under Notice of Intended Action as ARC 4329B to allow for public comment.

These amendments are intended to implement Iowa Code sections 217.6 and 249A.4 and Section 1935(a) of the Social Security Act (42 USC § 1396u-5).

These amendments became effective July 1, 2005.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code section 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515)281-5279 before the Administrative Rules Review Committee's review of this rule making.

The following amendments are adopted.

Adopt the following **new** chapter 441—91 under Title VIII, "Medical Assistance."

CHAPTER 91

MEDICARE DRUG SUBSIDY

PREAMBLE

Public Law 108-173, the Medicare Modernization Act of 2003, created a prescription

drug benefit for Medicare beneficiaries (Medicare Part D) and a subsidy to reduce or eliminate costs associated with the Medicare drug benefit for persons with limited income and resources. The Act requires both the federal Social Security Administration and state Medicaid agencies to accept and adjudicate subsidy applications. The Social Security Administration refers to the subsidy as “extra help for Medicare prescription drug costs.” This chapter implements procedures for the Department of Human Services, the state Medicaid agency in Iowa, to carry out these duties.

441--91.1(249A) Definitions. As used in this chapter:

“Applicant” means a person applying for a Medicare drug subsidy through the department and includes a responsible person or authorized representative acting for an applicant, except for purposes of subrule 91.2(2).

“Application” or “Medicare drug subsidy application” means the federal Social Security Administration’s form SSA-1020B-OCR-SM, Application for Help with Medicare Prescription Drug Plan Costs, accompanied by the Department’s form 470-4159, Authorization for Department to Process.

“Authorized representative” means a person representing an applicant or recipient as described in 441--76.1(7)“b.”

“Department” means the Iowa department of human services and includes any local office of the department.

“Local office” means a department office as described in 441--1.4(2).

“Recipient” means a person receiving a Medicare drug subsidy based on an application filed with the department and includes a responsible person or authorized representative acting for a recipient, except for purposes of subrule 91.2(2).

“Responsible person” means a person acting on an applicant’s or recipient’s behalf as described at 441--76.1(7)“a.”

441--91.2(249A) Application. Any person wishing to do so may apply for the Medicare drug subsidy through the department.

91.2(1) Date, method, and place of filing. An application is considered filed on the date an identifiable signed application is received and date-stamped in any local office.

a. When an application is delivered to a closed local office, the application will be considered received on the first day that is not a weekend or state holiday following the day that the office was last open.

b. A copy of an application received by fax shall be given the same effect as the original application

91.2(2) Identifiable application and signature.

a. An identifiable application is an application that contains:

(1) The legible name and address of the applicant; and

(2) The signatures of the applicant, a responsible person, or an authorized representative on both Form SSA-1020B-OCR-SM, Application for Help with Medicare Prescription Drug Plan Costs, and Form 470-4159, Authorization for Department to Process.

b. If an authorized representative signed the application forms on behalf of an applicant, the applicant or a responsible person must also sign the application forms before the application can be approved.

91.2(3) Right to withdraw. After an application has been filed, the applicant may withdraw the application at any time before the eligibility determination.

a. The applicant may request that the application be withdrawn entirely or may, before

the date the application is processed, request withdrawal for any month covered by the application.

b. The local office shall send a Notice of Decision, Form 470-0485, 470-0486, 470-0486(S), or 470-0490, to the applicant confirming the request to withdraw the application.

441—91.3(249A) Eligibility determination. The department shall determine eligibility for the Medicare drug subsidy pursuant to section 1860D-14 of the Social Security Act and implementing federal regulations at 20 CFR part 418. The department shall base decisions with respect to initial and ongoing eligibility primarily on information furnished by the applicant or recipient.

91.3(1) Cooperation. An applicant must cooperate with the department in the application process. Cooperation may include providing additional information or verification of information, participating in an interview, or signing documents. Failure to cooperate in the application process shall be a basis for denial of an application.

91.3(2) Additional information and verification. The department shall notify the applicant or recipient in writing of any additional information or verification that is required to maintain or establish eligibility. This notice shall be delivered to the applicant or recipient by personal delivery, mail, or facsimile transmission.

a. The applicant or recipient shall have five working days to supply the information or verification requested by the department. The local office may extend the deadline for a reasonable period when the applicant or recipient is making every effort to secure the required information or verification from a third party but is unable to do so.

b. Failure of the applicant or recipient to supply the information or verification, or refusal by the applicant or recipient to authorize the department to secure the information or

verification from other sources, shall serve as a basis for denial of an application or cancellation or reduction of the Medicare drug subsidy.

91.3(3) Interviews. At the discretion of the local office, an interview with the applicant or recipient may be required when processing the initial application or at the time of any review of eligibility.

a. The department shall notify the applicant or recipient in writing of the date, time, and method of any required interview. This notice shall be delivered to the applicant or recipient by personal delivery, mail, or facsimile transmission. Interviews may be rescheduled at the request of the applicant or recipient without written notice.

b. Failure of the applicant or recipient to participate in a scheduled interview shall serve as a basis for denial of an application or cancellation or reduction of the Medicare drug subsidy.

441--91.4(249A) Notice of decision. The department shall notify the applicant or recipient in writing of any decision regarding the applicant's or recipient's subsidy eligibility or level of subsidy.

91.4(1) The department shall issue a written notice of decision to an applicant by the next working day following a determination of subsidy eligibility and level of subsidy.

91.4(2) The department shall give a recipient timely and adequate written notice as provided in 441—7.7(1) when any decision or action is taken that adversely affects subsidy eligibility or the level of subsidy.

91.4(3) In the circumstances described in 441—subrule 7.7(2), the department may dispense with timely notice but shall send adequate notice no later than the effective date of action.

441--91.5(249A) Effective date. A Medicare prescription drug subsidy shall be effective

beginning with the first day of the month of application or the first day of the first month in which all eligibility requirements are met, whichever is later, but no earlier than January 1, 2006.

441—91.6(249A) Changes in circumstances.

91.6(1) Responsibility to report changes. A Medicare drug subsidy applicant or recipient shall timely report to the department any changes in the following circumstances:

- a. Care of dependents.
- b. Household composition.
- c. Household income.
- d. Household resources.
- e. Marital status.
- f. Medicare eligibility or enrollment.
- g. Place of residence.

91.6(2) Timely report. A report shall be considered timely when received in the local office within ten days from the date the change is known to a recipient and within five days from the date the change is known to an applicant.

91.6(3) Effective date of change. Changes in eligibility or level of subsidy shall be effective the month following the month in which the change is reported.

441--91.7(249A) Reinvestigation. The department shall reinvestigate eligibility as often as the recipient's circumstances indicate, but in no instance shall the period between reinvestigations exceed 12 months.

91.7(1) Application requested. When requested to do so by the department, the recipient shall complete the Medicare drug subsidy application as part of the reinvestigation process. The application shall be completed within five working days from the date on which a written request

is issued. Failure to complete the application shall be a basis for cancellation or reduction of the subsidy.

91.7(2) Additional information requested. The recipient shall supply additional information needed to establish eligibility or level of subsidy within five working days from the date a written request is issued.

a. The recipient shall give written permission for the release of information when the recipient is unable to furnish information needed to establish eligibility.

b. Failure to supply requested information or authorize the department to secure the information from other sources shall be a basis for cancellation or reduction of the subsidy.

441--91.8(249A) Appeals. An applicant or recipient shall have the right to appeal any adverse action by the department regarding the Medicare drug subsidy, pursuant to 441—Chapter 7.

Date

Mary Ellen Imlau, Rules Administrator
Designee of Director