

HUMAN SERVICES DEPARTMENT [441]

Adopted and Filed

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services amends Chapter 75, “Conditions of Eligibility,” Iowa Administrative Code.

These amendments are adopted in conjunction with amendments adopted by the Insurance Division that were published in the Iowa Administrative Bulletin on November 4, 2009, as **ARC 8271B**. The purpose of both filings is to cooperate in operating a long-term care partnership program in Iowa to provide for financing of long-term care through a combination of private insurance and medical assistance. The amendments are intended to implement Iowa Code chapter 514H as amended by 2009 Iowa Acts, House File 723, and to meet the requirements set by Section 6021 of the federal Deficit Reduction Act of 2005, Public Law 109-171.

The long-term care partnership program provides an incentive for the purchase of qualified long-term care insurance by allowing a \$1 disregard of resources for each \$1 that a Medicaid applicant’s insurance policy has paid for qualified long-term care expenses. The amendments in Item 1:

- Remove the minimum age limit of 65;
- Clarify that the benefit applies to persons who would be eligible for cash assistance or

the Family Medical Assistance Program if they were not in a medical institution, persons who qualify for Medicaid under a special income standard for persons who stay in a medical

institution more than 30 days, and persons eligible for Medicaid home- and community-based waiver services; and

- Extend the incentive by exempting those disregarded resources from recovery from the estate after the Medicaid member's death.

These amendments do not provide for waivers in specified situations, since they are made to conform to federal and state law. However, requests for the waiver of any rule may be submitted under the Department's general rule on exceptions at 441—1.8(17A,217).

Notice of Intended Action on these amendments was published in the Iowa Administrative Bulletin on October 7, 2009, as **ARC 8220B**. The Department received no comments on the Notice of Intended Action. These amendments are identical to those published under Notice of Intended Action.

The Council on Human Services adopted these amendments on December 9, 2009.

These amendments are intended to implement Iowa Code sections 249A.3 and 249A.4 and Iowa Code section 249A.35 and chapter 514H as amended by 2009 Iowa Acts, House File 723, sections 1 and 14 to 21, respectively.

These amendments shall become effective on March 1, 2010.

The following amendments are adopted.

ITEM 1. Amend subrule **75.5(5)** as follows:

75.5(5) Consideration of resources for persons ~~in a medical institution~~ who have purchased and used a ~~precertified~~ qualified or approved long-term care insurance policy pursuant to department of commerce, division of insurance, rules in 191—Chapter 39 or 72.

a. Eligibility. A person ~~65 years of age or older who~~ may be eligible for medical assistance under this subrule if:

(1) The person is ~~either~~ the beneficiary of a ~~certified~~ qualified long-term care insurance policy or is enrolled in a prepaid health care delivery plan that provides long-term care services pursuant to 191—Chapter 39 or 72; and ~~who~~

(2) The person is eligible for medical assistance under ~~75.1(3), 75.1(4), 75.1(5), 75.1(6), 75.1(7), 75.1(9), 75.1(12), 75.1(13), 75.1(17), or 75.1(18), 75.1(23) or 75.1(27)~~ except for excess resources ~~may be eligible for medical assistance under this subrule if;~~ and

(3) ~~the~~ The excess resources causing ineligibility under the listed coverage groups do not exceed the “asset adjustment” provided in this subrule.

b. Definition. “Asset adjustment” shall mean a \$1 disregard of resources for each \$1 that has been paid out under the person’s qualified or approved long-term care insurance policy ~~for~~ ~~qualified Medicaid long-term care services.~~

c. Estate recovery. An amount equal to the benefits paid out under a member’s qualified or approved long-term care insurance policy will be exempt from recovery from the estate of the member or the member’s spouse for payments made by the medical assistance program on behalf of the member.

ITEM 2. Amend rule ~~441--75.5(249A)~~, implementation sentence, as follows:

This rule is intended to implement Iowa Code sections 249A.3, ~~and~~ 249A.4, and 249A.35 and chapter ~~249G~~ 514H.