

HUMAN SERVICES DEPARTMENT [441]

**Notice of Intended Action**

Pursuant to the authority of Iowa Code section 249A.4 and 2009 Iowa Acts, Senate File 389, section 38, the Department of Human Services proposes to amend Chapter 7, “Appeals and Hearings,” and Chapter 75, Conditions of Eligibility,” Iowa Administrative Code.

The proposed amendments would establish presumptive eligibility for children. Presumptive eligibility is a process that allows a child immediate access to health care services under Medicaid pending a formal eligibility determination for Medicaid or HAWK-I by the Department.

Qualified entities will determine the presumptive eligibility for children based on self-declared household income, family size, citizenship or alien status, residency, and age. A “qualified entity” is defined as any entity allowed by federal law that the Department determines can make the presumptive eligibility decision. Qualified entities will include providers that are currently qualified to determine presumptive eligibility for pregnant women.

Presumptive eligibility would begin the day the determination is completed and continue until the child is determined eligible or ineligible for Medicaid or HAWK-I. A child may be determined presumptively eligible only once in a 12-month period.

Even if presumptive eligibility is not approved, the presumptive eligibility application will be treated as an application for Medicaid. All applications will be forwarded to the Department for a formal eligibility determination. If the household’s income exceeds the limit

for Medicaid, the application will be referred to the third-party administrator for the HAWK-I program. The family will not have to file a separate application. This process will help to facilitate the enrollment of eligible children in Medicaid or HAWK-I.

These amendments do not provide for waivers in specified situations because the changes are mandated by state legislation and confer a benefit to the families and providers affected.

Any interested person may make written comments on the proposed amendments on or before September 15, 2009. Comments should be directed to Mary Ellen Imlau, Bureau of Policy Analysis and Appeals, 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](mailto:policyanalysis@dhs.state.ia.us).

These amendments are intended to implement Iowa Code section 249A.3 and 2009 Iowa Acts, Senate File 389, section 38(4).

The following amendments are proposed.

ITEM 1. Amend subparagraphs **7.5(2)“a”(6)** and **(7)** as follows:

(6) A qualified provider or qualified entity has denied a person presumptive eligibility for Medicaid under 441—subrule 75.1(30), ~~or 75.1(40)~~, or 75.1(44).

(7) A qualified provider or qualified entity has determined a person to be presumptively eligible for Medicaid under 441—subrule 75.1(30), ~~or 75.1(40)~~, or 75.1(44), but presumptive eligibility ends due to the person’s failure to file an application.

ITEM 2. Adopt **new** subrule **75.1(44)** as follows:

**75.1(44)** Presumptive eligibility for children. Medical assistance shall be available to children under the age of 19 who are determined by a qualified entity to be presumptively eligible for medical assistance pursuant to this subrule.

a. Qualified entity. A “qualified entity” is an entity described in paragraphs (1) through (10) of the definition of the term at 42 CFR 435.1101, as amended to October 1, 2008, that:

(1) Has been determined by the department to be capable of making presumptive determinations of eligibility, and

(2) Has signed an agreement with the department as a qualified entity.

b. Application process. Families requesting assistance for children under this subrule shall apply with a qualified entity. The qualified entity shall use the Department’s web-based system to make the presumptive eligibility determination, based on the information provided in the application.

(1) All presumptive eligibility applications shall be forwarded to the department for a full Medicaid or HAWK-I eligibility determination, regardless of the child’s presumptive eligibility status.

(2) The date a valid application was received by the qualified entity establishes the date of application for purposes of determining the effective date of Medicaid or HAWK-I eligibility unless the qualified entity received the application on a weekend or state holiday. Applications received by the qualified entity on a weekend or a state holiday shall be considered to be received on the first business day following the weekend or state holiday.

(3) The qualified entity shall issue Form 470-2580 or 470-2580(S), Presumptive Medicaid Eligibility Notice of Decision, to inform the applicant of the decision on the application as soon as possible but no later than within two working days after the date the determination is made.

(4) Timely and adequate notice requirements and appeal rights of the Medicaid program shall not apply to presumptive eligibility decisions made by a qualified entity.

c. Eligibility requirements. To be determined presumptively eligible for medical assistance, a child shall meet the following eligibility requirements.

(1) Age. The child must be under the age of 19.

(2) Household income. Household income must be less than 300 percent of the federal poverty level for a household of the same size. For this purpose, the household shall include the applicant child and any sibling (of whole or half blood, or adoptive), spouse, parent, or stepparent living with the applicant child. This determination shall be based on the household's gross income, with no deductions, diversions, or disregards.

(3) Citizenship or qualified alien status. The child must be a citizen of the United States or a qualified alien as defined in subrule 75.11(2).

(4) Iowa residency. The child must be a resident of Iowa.

(5) Prior presumptive eligibility. A child shall not be determined presumptively eligible more than once in a 12-month period. The first month of the 12-month period begins with the month the application is received by the qualified entity.

d. Period of presumptive eligibility. Presumptive eligibility shall begin with the date that presumptive eligibility is determined and shall continue until the earliest of the following dates:

(1) The last day of the next calendar month;

(2) The day the child is determined eligible for Medicaid;

(3) The last day of the month that the child is determined eligible for HAWK-I; or

(4) The day the child is determined ineligible for Medicaid and HAWK-I. Withdrawal of the Medicaid or HAWK-I application before eligibility is determined shall not affect the child's eligibility during the presumptive period.

e. Services covered. Children determined presumptively eligible under this subrule shall be entitled to all Medicaid-covered services, including early and periodic screening, diagnosis, and treatment (EPSDT) services. Payment of claims for Medicaid services provided to a child during the presumptive eligibility period, including EPSDT services, is not dependent upon a determination of Medicaid or HAWK-I eligibility by the department.