

HUMAN SERVICES DEPARTMENT [441]

Notice of Intended Action

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

These amendments are proposed in conjunction with amendments proposed by the Insurance Division in **ARC 8132B**, a Notice of Intended Action which was published in the Iowa Administrative Bulletin on September 9, 2009. 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).

Any interested person may make written comments on the proposed amendments on or before October 27, 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.

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.

The following amendments are proposed.

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 ~~pre-certified~~ qualified or approved long-term care insurance policy pursuant to department of commerce, division of insurance, rules 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 statement, as follows:

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