

/* The IOWA ADMINISTRATIVE CODE (IAC) is being updated. The provision presently presented addresses insurance and education, and Medical issues. */

Insurance

191-15.12(505) Applications for insurance-testing restrictions. No person engaged in the business of insurance shall require a test of an individual in connection with an application for insurance for the presence of an antibody to the human immunodeficiency virus unless the individual provides a written release on a form which contains the following information: A statement of the purpose, content, use, and meaning of the test.

A statement regarding disclosure of the test results including information explaining the effect of releasing the information to a person engaged in the business of insurance.

A statement of the purpose for which test results may be used.

A preapproved form is provided in the appendix to this rule. A person wishing to utilize a form which deviates from the language in the appendix to this rule shall submit the form to the insurance division for approval. Any form containing, but not limited to, the language in the appendix shall be deemed approved.

APPENDIX

HIV Antibody Test

Information Form For Insurance Applicant AIDS

Acquired Immunodeficiency Syndrome (AIDS) is a life-threatening disorder of the immune system, caused by a virus, HIV. The virus is transmitted by sexual contact with an infected person, from an infected mother to her newborn infant, or by exposure to infected blood (as in needle sharing during IV drug use). Persons at high risk of contracting AIDS include males who have had sexual contact with another man, intravenous drug users, hemophiliacs, and sexual contacts with any of these persons. AIDS does not typically develop until a person has been infected with HIV for several years. A person may remain free of symptoms for years after becoming infected. Infected persons have a 25 percent to 50 percent chance of developing AIDS over the next 10 years.

The HIV antibody test:

Before consenting to testing, please read the following important information:

I. Purpose. This test is being run to determine whether you may have been infected with HIV. If you are infected, you are probably not insurable. This test is not a test for AIDS; AIDS

can only be diagnosed by medical evaluation.

2. Positive test results. If you test positive, you should seek medical follow-up with your personal physician. If your test is positive, you may be infected with HIV.

3. Accuracy. An HIV test will be considered positive only after confirmation by a laboratory procedure that the state health officer has determined to be highly accurate. Nonetheless, the HIV antibody test is not 100 percent accurate. Possible errors include:

a. False positives: The test gives a positive result, even though you are not infected. This happens only rarely and is more common in persons who have not engaged in high risk behavior. Retesting should be done to help confirm the validity of a positive test.

b. False negatives: The test gives a negative result, even though you are infected with HIV. This happens most commonly in recently infected persons; it takes at least 4 to 12 weeks for a positive test result to develop after a person is infected.

4. Side effects. A positive test result may cause you significant anxiety. A positive test may result in uninsurability for life, health, or disability insurance policies you may apply for in the future. Although prohibited by law, discrimination in housing, employment, or public accommodations may result if your test results were to become known to others. A negative result may create a false sense of security.

5. Disclosure of results. A positive test result will be disclosed to you. You may choose to have information about your HIV test results communicated to you through your physician or through the alternative testing site.

6. Confidentiality. Like all medical information, HIV test results are confidential. An insurer, insurance agent, or insurance-support organization is required to maintain the confidentiality of HIV test results. However, certain disclosures of your test results may occur, including those authorized by consent forms that you may have signed as part of your overall application. Your test results may be provided to the Medical Information Bureau, a national insurance data bank. Your insurance agent will provide you with additional written information about this subject at your request.

7. Prevention. Persons who have a history of high risk behavior should change these behaviors to prevent getting or giving AIDS, regardless of whether they are tested. Specific important changes in behavior include safe sex practices (including condom use for sexual contact with someone other than a long-term monogamous partner) and not sharing needles.

8. Information. Further information about HIV testing and AIDS

can be obtained by calling the Iowa AIDS hotline at 1-800-532.3301.

INFORMED CONSENT

I hereby authorize the company and its designated medical facilities to draw samples of my blood for the purpose of laboratory testing to provide applicable medical information concerning my insurability. These tests may include but are not limited to test for: cholesterol and related blood lipids; diabetes; liver or kidney disorders; infection by the Acquired Immune Deficiency Syndrome (HIV) virus (if permitted by law); immune disorders; or the presence of medications, drugs, nicotine or other metabolites. The tests will be done by a medically accepted procedure which is extremely reliable.

If an HIV Antibody Screen is performed, it will be performed only by a certified laboratory and according to the following medical protocol:

1. An initial ELISA blood test will be done.
 - a. If the initial ELISA blood test is positive, it will be repeated.
 - b. If the initial ELISA blood test is negative, a negative finding will be reported to the company.
2. If the initial ELISA blood test is positive, it will be repeated.
 - a. if the second ELISA blood test is also positive, a Western Blot blood test will be performed to confirm the positive results of the two ELISA blood tests.
 - b. If the second ELISA blood test is negative, a third ELISA blood test will be performed. If the third ELISA blood test is positive, a Western Blot blood test will be performed to confirm the previous positive results. If the third ELISA blood test is negative, a negative result will be reported to the company.
3. Only if at least two ELISA blood tests and a Western Blot blood test are all positive will the result be reported as a positive. All other results will be reported as negative to the company.

Without a court order or written authorization from me, these results will be made known only to the company and its reinsurers (if involved in the underwriting process). The company will provide results of all tests to a physician of my choice.

Positive test results to the HIV Antibody Screen will be disclosed only as I direct below. In addition, the company may make a brief report to MIB, Inc., in a manner described in the Pre-notice which I received as a part of the application process. All the company will report to MIB, Inc. is that positive results were obtained from a blood test. The company will not report what

tests were performed or that the positive result was for HIV antibodies.

These organizations will be the only ones maintaining this information in any type of file except as required by law.

Positive HIV Antibody Screen results are to be reported to:

(elect one) the Alternative Testing Site

or my physician;

(name and address of attending physician)

This authorization will be valid for 90 days from the date below.

Dated At: _____ Day _____ Month
_____, 19 _____

Witness _____ proposed Insured: _____
Agent (Signature) (Signature)

This rule is intended to implement 1988 Iowa Acts, House File 2294, section 7.

Education [281]

281-12.5(256) Education program. The following education program standards shall be met by schools and school districts for accreditation with the start of the 1989-1990 school year.

12.5(1) Prekindergarten program. If a school offers a prekindergarten program, the program shall be designed to help children to work and play with others, to express themselves, to learn to use and manage their bodies, and to extend their interests and understanding of the world about them. The prekindergarten program shall relate the role of the family to the child's developing sense of self and perception of others. Planning and carrying out prekindergarten activities designed to encourage cooperative efforts between home and school shall focus on community resources. A prekindergarten teacher shall hold a certificate certifying that the holder is qualified to teach in prekindergarten. A nonpublic school which offers only a prekindergarten may, but is not required to, seek and obtain accreditation.

12.5(2) Kindergarten program. The kindergarten program shall include experiences designed to develop healthy emotional and social habits and growth in the language arts and communication skills, as well as a capacity for the completion of individual tasks, and protect and increase physical well-being with attention given to experiences relating to the development of life skills and human growth and development. A kindergarten teacher shall be certificated to teach in kindergarten. An

accredited nonpublic school must meet the requirements of this subsection only if the nonpublic school offers a kindergarten program.

12.5(3) Elementary program, grades 1-6. The following areas shall be taught in grades one through six: English-language arts, social studies, mathematics, science, health, human growth and development, physical education, traffic safety, music, and visual art.

In implementing the elementary program standards, the following general curriculum definitions shall be used.

* * *

e. Health. Health instruction shall include personal health; food and nutrition; environmental health; safety and survival skills; consumer health; family life; substance abuse and nonuse, encompassing the effects of alcohol, tobacco, drugs, and poisons on the human body; human sexuality, self-esteem, stress management, and interpersonal relationships; emotional and social health; health resources; and prevention and control of disease, and the characteristics of communicable diseases, including acquired immune deficiency syndrome.

* * *

12.5(4) Junior high program, grades 7 and 8. The following shall be taught in grades seven and eight: English-language arts, social studies, mathematics, science, health, human growth and development, family and consumer, career, and technology education, physical education, music, and visual art. Instruction in the following areas shall include the contributions and perspectives of persons with disabilities, both men and women, and persons from diverse racial and ethnic groups and shall be designed to eliminate career and employment stereotypes.

In implementing the junior high program standards, the following general curriculum definitions shall be used.

* * *

e. Health. Health instruction shall include personal health; food and nutrition; environmental health; safety and survival skills; consumer health; family life; substance abuse and nonuse, encompassing the effects of alcohol, tobacco, drugs, and poisons on the human body; human sexuality, self-esteem, stress management, and interpersonal relationships; emotional and social health; health resources; and prevention and control of disease and the characteristics of communicable diseases, including sexually transmitted diseases and acquired immune deficiency syndrome.

* * *

12.5(5) High school program, grades 9-12. In grades nine through twelve a unit is a course or equivalent related components or partial units taught throughout the academic year as defined in subrule 12.5(18). The following shall be offered and taught as the minimum program: English-language arts, six units; social studies, five units; mathematics, six units as specified in subrule 12.5(5)"e", science, five units; health, one unit; physical education, one unit; fine arts, three units; foreign language, four units; and vocational education, five units as specified in subrule 12.5(5)"i."

In implementing the high school program standards, the following curriculum standards shall be used.

* * *

e. Health (one unit). Health instruction shall include personal health; food and nutrition; environmental health, safety and survival skills; consumer health; family life; human growth and development; substance abuse and nonuse; emotional and social health; health resources; and prevention and control of disease, including sexually transmitted diseases and acquired immune deficiency syndrome, current crucial health issues, human sexuality, self-esteem, stress management, and interpersonal relationships.

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HUMAN SERVICES

441-75.22(249A) AIDS/HIV health insurance premium payment pilot project. For the purposes of this rule, "AIDS" and "HIV" are defined in accordance with Iowa Code section 141.21.

75.22(l) Conditions of eligibility. The department shall pay for the cost of continuing health insurance coverage to persons with AIDS or HIV-related illnesses when the following criteria are met:

- a. The person with AIDS or HIV-related illness shall be the policyholder of an individual or group health plan.
- b. The person shall be a resident of Iowa in accordance with the provisions of rule 441-75.10(249A).
- c. The person shall not be eligible for Medicaid. The person shall be required to apply for Medicaid benefits when it appears Medicaid eligibility may exist. Persons who are required to meet a spenddown obligation under the medically needy program, as provided in 441 -Chapter 56, are not considered Medicaid-eligible for the purpose of establishing eligibility under these provisions.

When Medicaid eligibility is attained, premium payments shall be made under the provisions of rule 441 75.21(249A) if all

criteria of that rule are met.

d. A physician's statement shall be provided verifying the policyholder suffers from AIDS or an HIV-related illness. The physician's statement shall also verify that the policyholder is or will be unable to continue employment in the person's current position or that hours of employment will be significantly reduced due to AIDS or HIV-related illness. The Physician's Verification of Diagnosis, Form 470-2958, shall be used to obtain this information from the physician.

e. Gross income shall not exceed 300 percent of the federal poverty level for a family of the same size. The gross income of all family members shall be counted using the definition of gross income under the Supplemental Security Income (SSI) program.

f. Liquid resources shall not exceed \$10,000 per household. The following are examples of countable resources:

(1) Unobligated cash.

(2) Bank accounts.

(3) Stocks, bonds, certificates of deposit, excluding Internal Revenue Service defined retirement plans.

g. The health insurance plan must be cost-effective based on the amount of the premium and the services covered.

75.22(2) Application process.

a. Application. Persons applying for participation in this program shall complete the AIDS/HIV Health Insurance Premium Payment Application, Form 470-2953. The applicant shall be required to provide documentation of income and assets. The application shall be available from and may be filed at any county departmental office or at the Bureau of Operations, Department of Human Services, Hoover State Office Building, Des Moines, Iowa 50319-0114.

An application shall be considered as filed on the date an AIDS/HIV Health Insurance Premium Payment Application, Form 470-2953, containing the applicant's name, address and signature is received and date-stamped in any county departmental office or the bureau of operations.

b. Time limit for decision. Every reasonable effort will be made to render a decision within 30 days. Additional time for rendering a decision may be taken when, due to circumstances beyond the control of the applicant or the department, a decision regarding the applicant's eligibility cannot be reached within 30 days (e.g., verification from a third party has not been received).

e. Waiting list. After funds appropriated for this purpose are obligated, pending applications shall be denied by the bureau of operations. A denial shall require a notice of decision to be

mailed within ten calendar days following the determination that funds have been obligated. The notice shall state that the applicant meets eligibility requirements but no funds are available and that the applicant will be placed on the waiting list, or that the applicant does not meet eligibility requirements. Applicants not awarded funding who meet the eligibility requirements will be placed on a statewide waiting list according to the order in which the completed applications were filed. In the event that more than one application is received at one time, applicants shall be entered on the waiting list on the basis of the day of the month of the applicant's birthday, lowest number being first on the waiting list. Any subsequent tie shall be decided by the month of birth, January being month one and the lowest number.

75.22(3) Presumed eligibility. The applicant may be presumed eligible to participate in the program for a period of two calendar months or until a decision regarding eligibility can be made, whichever is earlier. Presumed eligibility shall be granted when:

- a. The application is accompanied by a completed Physician's Verification of Diagnosis, Form 470-2958.
- b. The application is accompanied by a premium statement from the insurance carrier indicating the policy will lapse before an eligibility determination can be made.
- c. It can be reasonably anticipated that the applicant will be determined eligible from income and resource statements on the application.

75.22(4) Family coverage. When the person is enrolled in a policy that provides health insurance coverage to other members of the family, only that portion of the premium required to maintain coverage for the policyholder with AIDS or an HIV-related illness shall be paid under this rule unless modification of the policy would result in a loss of coverage for the person with AIDS or an HIV-related illness.

75.22(5) Method of premium payment. Premiums shall be paid in accordance with the provisions of subrule 75.21(9).

75.22(6) Effective date of premium payment. Premium payments shall be effective with the month of application or the effective date of eligibility, whichever is later.

75.22(7) Reviews. The circumstances of persons participating in the program shall be reviewed quarterly' to ensure eligibility criteria continues to be met. The AIDS/HIV Health Insurance Premium Payment Program Review, Form 470-2877, shall be completed by the recipient or someone acting on the recipient's behalf for this purpose.

75.22(8) Termination of assistance. Premium payments for

otherwise eligible persons shall be paid under this rule until one of the following conditions is met:

- a. The person becomes eligible for Medicaid. In which case, premium payments shall be paid in accordance with the provisions of rule 441-75.2I(249A).
- b. The insurance coverage is no longer available.
- c. Maintaining the insurance plan is no longer considered the most cost-effective way to pay for medical services.
- d. Funding appropriated for the program is exhausted.

75.22(9) Notices.

a. An adequate notice as defined in 441-subrule 7.7(I) shall be provided under the following circumstances:

- (1) To inform the applicant of the initial decision regarding eligibility to participate in the program.
- (2) To inform the recipient that premium payments are being discontinued under these provisions because Medicaid eligibility has been attained and premium payments will be made under the provisions of rule 441-75.2I(249A).
- (3) To inform the recipient that premium payments are being discontinued because the policy is no longer available.
- (4) To inform the recipient that premium payments are being discontinued because funding for the program is exhausted.

b. A timely and adequate notice as defined in 441-subrule 7.7(1) shall be provided to the recipient informing the recipient of a decision to discontinue payment of the health insurance premium when the recipient no longer meets the eligibility requirements of the program or fails to cooperate in providing information to establish eligibility.

75.22(10) Confidentiality. The department shall protect the confidentiality of persons participating in the program in accordance with Iowa Code chapter 141. When it is necessary for the department to contact a third party to obtain information in order to determine initial or ongoing eligibility, a Consent to Release or Obtain Information, Form 470-0429, shall be signed by the recipient authorizing the department to make the contact. This rule is intended to implement Iowa Code section 249A.4 and 1992 Iowa Acts, Second Extraordinary Session, chapter 1001, section 409, subsection 6.

441-77.34(249A) AIDS/HIV waiver service providers. The following AIDS/HIV waiver service providers shall be eligible to participate in the Medicaid program provided that they' meet the standards set forth below:

77.34(1) Counseling providers. Counseling providers shall be:

- a. Agencies which are certified under the standards established

by the Iowa mental health authority, set forth in 441-Chapter 33.

b. Agencies which are licensed as meeting the standards and requirements set forth in department of inspections and appeals rules 481-Chapter 53 or which are certified to meet the standards under the Medicare program for hospice programs.

c. Agencies which are accredited under the standards established by the Iowa mental health authority, set forth in 441-Chapter 35.

77.34(2) Home health aide providers. Home health aide providers shall be agencies which meet the standards and requirements set forth in department of public health rules, 0 641-80.3(135), 641-80.4(135) and 641-80.5(135), or which are certified to meet the standards under the Medicare program for home health agencies.

77.34(3) Homemaker providers. Homemaker providers shall be agencies which meet the standards and requirements set forth in department of public health rules, 641-80.3(135), 641-80.4(135) and 641-80.5(135), or which are certified to meet the standards under the Medicare program for home health agencies.

77.34(4) Nursing care providers. Nursing care providers shall be agencies which are certified to meet the standards under the Medicare program for home health agencies.

77.34(5) Respite care providers. In-home respite care providers shall be agencies which meet the conditions of participation set forth in subrule 77.34(2). Out-of-home respite care providers shall be nursing facilities which are certified to meet the standards set forth in 441-Chapter 81 or hospitals certified to participate in the Medicaid program.

This rule is intended to implement Iowa Code section 249A.4.