

donations, bequests, and in-kind contributions for deposit in the endowment account. The endowment foundation shall, to the extent possible, use gifts, donations, and bequests in accordance with the expressed desires of the person making the gift, donation, or bequest.

Sec. 9. Section 303.1, subsection 2, paragraph i, Code 1991, is amended by striking the paragraph.

Sec. 10. Section 303.2, subsection 4, paragraph d, Code 1991, is amended by striking the paragraph.

Sec. 11. Section 303.87, subsection 3, Code 1991, is amended by striking the subsection.

Sec. 12. TRANSFER OF FUNDS. Notwithstanding the nonreversion provision in section 99E.32, subsection 7, and the reversion provision in 1990 Iowa Acts, chapter 1255, section 37, subsection 2, moneys appropriated to the department of cultural affairs and allocated for the artists endowment program which are not used by or on the effective date of this Act shall be deposited by the department in equal amounts in the enhancement account and the endowment account created in this Act.

Sec. 13. Sections 303.89 and 303.90, Code 1991, are repealed.

Approved May 10, 1991

CHAPTER 158

MEDICAL ASSISTANCE PROGRAM

S.F. 343

AN ACT relating to the medical assistance program.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 249A.2, Code 1991, is amended by adding the following new subsection:
NEW SUBSECTION. 5A. "Group health plan cost sharing" means payment under the medical assistance program of a premium, a coinsurance amount, a deductible amount, or any other cost sharing obligation for a group health plan as required by Title XIX of the federal Social Security Act, section 1906, as codified in 42 U.S.C. § 1396e.

Sec. 2. Section 249A.2, subsection 7, Code 1991, is amended to read as follows:

7. "~~Medicare cost sharing~~ cost sharing" means payment under the medical assistance program of a premium, a coinsurance amount, or a deductible amount for federal medicare as ~~required~~ provided by Title XIX of the federal Social Security Act, section 1905(p)(3), as codified in 42 U.S.C. § 1396d(p)(3).

Sec. 3. Section 249A.3, subsection 8, Code 1991, is amended to read as follows:

8. Medicare cost sharing shall be provided to or on behalf of an individual who is a resident of the state or a resident who is temporarily absent from the state and who is either a qualified medicare beneficiary as defined under Title XIX of the federal Social Security Act, section 1905(p)(1), as codified in 42 U.S.C. § 1396d(p)(1) or a qualified disabled and working person as defined under Title XIX of the federal Social Security Act, section 1905(s), as codified in 42 U.S.C. § 1396d(s).

Sec. 4. Section 249A.3, Code 1991, is amended by adding the following new subsection:
NEW SUBSECTION. 10. Group health plan cost sharing shall be provided as required by Title XIX of the federal Social Security Act, section 1906, as codified in 42 U.S.C. § 1396e.

Sec. 5. Section 249A.4, Code 1991, is amended by adding the following new subsection: **NEW SUBSECTION. 14.** In implementing subsection 9, relating to reimbursement for medical and health services under this chapter, when a selected out-of-state acute care hospital facility is involved, a contractual arrangement may be developed with the out-of-state facility that is in accordance with the requirements of Titles XVIII and XIX of the federal Social Security Act. The contractual arrangement is not subject to other reimbursement standards, policies, and rate setting procedures required under this chapter.

Sec. 6. **NEW SECTION. 249A.20 ENHANCED MENTAL HEALTH, MENTAL RETARDATION, AND DEVELOPMENTAL DISABILITIES SERVICES PLAN OVERSIGHT COMMITTEE.**

1. For purposes of this section and section 249A.21, "oversight committee" means the enhanced mental health, mental retardation, and developmental disabilities services plan oversight committee and "candidate service" means day treatment, partial hospitalization, and case management. Case management is limited to persons with mental retardation, a developmental disability, or chronic mental illness.

2. An enhanced mental health, mental retardation, and developmental disabilities services plan oversight committee is created in the department to assure that the services plan is implemented within identified, budgeted, and appropriated funds.

3. The oversight committee shall have nine members. Two members shall be designated by the fiscal committee of the legislative council and are subject to approval by the governor. The director of human services and the administrator of the division of mental health, mental retardation, and developmental disabilities or their designees shall be members. Three members shall be designated by the Iowa state association of counties. One member shall be designated by the state mental health and mental retardation commission. One member shall be designated by the governor's planning council on developmental disabilities. Members shall serve staggered three-year terms and vacancies shall be filled in the same manner as the initial appointment. Members are entitled to actual and necessary expenses.

4. The oversight committee shall do all of the following:

a. Take action on whether to include behavior management as a candidate service in the state medical assistance plan amendment, to develop a federal waiver request for behavior management as a candidate service, or to take no action to include behavior management as a covered service. Decisions shall be based upon a determination of the availability of funds for the nonfederal share of the cost of the service.

b. Explore and make recommendations regarding the submission to the federal government of a state medical assistance plan waiver for any candidate services which are not accepted by the federal government as a state medical assistance plan amendment.

c. Explore and make recommendations regarding the submission to the federal government of a state medical assistance plan waiver for any services provided to persons with mental retardation, a developmental disability, or chronic mental illness.

d. Review and make recommendations regarding the county case management implementation plan and budget to the state mental health and mental retardation commission.

e. Track the expenditures for, and utilization of, candidate services. Report a variance in an approved plan to the governor, the legislative fiscal bureau, and each county.

f. Recommend action regarding variations from the budgeted, appropriated, and identified expenditures and projected expenditure offsets to the council on human services and the state mental health and mental retardation commission.

g. Submit a report regarding the results of the implementation of the provisions of this section, including the impact upon the institutional populations, to the governor and the general assembly. The report shall contain recommendations regarding continuing the provisions of this section in subsequent fiscal years.

h. Recommend rules, or amendments to existing rules, which implement the provisions of this section, to the council on human services and the state mental health and mental retardation commission.

i. Develop a methodology to determine the base year expenditure for a county maintenance of effort established pursuant to section 249A.21 which includes an amount for each of the candidate services.

j. Issue a final advisory decision regarding any issue of disagreement between a county and the department relating to expenditures for candidate services or the county's maintenance of effort.

Sec. 7. NEW SECTION. 249A.21 CANDIDATE SERVICES FUND.

1. A state candidate services fund is created in the office of the treasurer of state under the authority of the department. The fund shall consist of moneys appropriated to the fund and moneys received from counties pursuant to this section. Notwithstanding section 8.33, moneys in the candidate services fund which are unobligated or unexpended on June 30 of any fiscal year shall not revert to the general fund of the state but shall remain in the candidate services fund and be used for the purposes of this section. Any interest or other earnings on the moneys in the candidate services fund shall remain in the candidate services fund and shall be used for the purposes of this section.

2. The county of legal settlement shall be billed for fifty percent of the nonfederal share of the cost of case management provided to adults, day treatment, and partial hospitalization provided under the medical assistance program for persons with mental retardation, a developmental disability, or chronic mental illness. For purposes of this section, chronic mental illness does not include organic mental disorders.

3. If a county's expenditures for candidate services provided to persons with mental retardation, a developmental disability, or chronic mental illness exceeds the county's base year expenditure amount for these services established under 1988 Iowa Acts, chapter 1276, section 14, the county shall receive from the candidate services fund the least amount of the following:

a. The difference between the county's total expenditures for the candidate services in the fiscal year and the base year expenditure amount.

b. The amount expended by the county under subsection 2.

c. The amount by which the total expenditures for persons with mental retardation, a developmental disability, or chronic mental illness for a fiscal year, exceeds the maintenance of effort expenditures established under 1988 Iowa Acts, chapter 1276, section 14.

Sec. 8. NEW SECTION. 249A.22 INDEMNITY FOR CASE MANAGEMENT AND DISALLOWED COSTS.

1. If the department contracts with a county or consortium of counties to provide case management services funded under medical assistance, the state shall appear and defend the department's employees and agents acting in an official capacity on the department's behalf and the state shall indemnify the employees and agents for acts within the scope of their employment. The state's duties to defend and indemnify shall not apply if the conduct upon which any claim is based constitutes a willful and wanton act or omission or malfeasance in office.

2. If the department is the case management contractor, the state shall be responsible for any costs included within the unit rate for case management services which are disallowed for medical assistance reimbursement by the federal health care financing administration. The contracting county shall be credited for the county's share of any amounts overpaid due to the disallowed costs. However, if certain costs are disallowed due to requirements or preferences of a particular county in the provision of case management services, the county shall not receive credit for the amount of the costs.

Sec. 9. Section 249B.1, subsection 6, Code 1991, is amended to read as follows:

6. "Medical assistance" means "medical assistance", "additional medical assistance", "discretionary medical assistance" or "~~medicare cost-sharing~~ cost sharing" as defined in section 249A.2 which is provided to an individual pursuant to chapter 249A and Title XIX of the federal Social Security Act.

Sec. 10. Section 421.38, subsection 1, Code 1991, is amended to read as follows:

1. **THREE MONTHS LIMIT.** A claim shall not be allowed by the department of revenue and finance if the claim is presented after the lapse of three months from its accrual. However, claims this time limit is subject to the following exceptions:

a. Claims by state employees for benefits pursuant to chapters 85, 85A, and 86 are subject to limitations provided in those chapters.

b. Claims for medical assistance payments authorized under chapter 249A are subject to the time limits imposed by rule adopted by the department.

Sec. 11. **LEGISLATIVE INTENT.** Nothing in this Act is intended by the general assembly to be the provision of a fair and equitable funding formula specified in 1985 Iowa Acts, chapter 249, section 9. Nothing in this Act shall be construed, is intended, or shall imply a claim of entitlement to any programs or services specified in section 225C.28.

Approved May 10, 1991

CHAPTER 159

TAX ADMINISTRATION — DEPARTMENT OF REVENUE AND FINANCE

S.F. 356

AN ACT relating to the procedures, confidentiality, penalties, refunds, and nonsubstantive changes for taxes administered by the department of revenue and finance, relating to refunds of the environmental protection charge, and providing effective dates.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 257.21, unnumbered paragraph 2, Code 1991, is amended to read as follows:

The instructional support income surtax shall be imposed on the state individual income tax for the calendar year during which the school's budget year begins, or for a taxpayer's fiscal year ending during the second half of that calendar year and after the date the board adopts a resolution to participate in the program or the first half of the succeeding calendar year, and shall be imposed on all individuals residing in the school district on the last day of the applicable tax year. As used in this section, "state individual income tax" means the ~~tax~~ taxes computed under section 422.5, less the ~~deductions~~ credits allowed in sections ~~422.10 through 422.11A, 422.11B, 422.11C, 422.12, and 422.12B.~~

Sec. 2. Section 324.65, unnumbered paragraph 2, Code 1991, is amended to read as follows:

~~The appropriate state agency shall not remit any part of a penalty for delinquent payment if the delinquency results from the fact that a check given in payment is not honored because of insufficient funds in the account upon which the check was drawn.~~ A report required of licensees or persons operating under division III, upon which no tax is due, is subject to a penalty of ten dollars if the report is not timely filed with the state department of transportation.

Sec. 3. Section 421.17, Code 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 32. To ensure that persons employed under contract, other than officers or employees of the state, who provide assistance in administration of tax laws and who are directly under contract or who are involved in any way with work under the contract and who have access to confidential information are subject to applicable requirements and penalties of tax information confidentiality laws of the state regarding all tax return, return information, or investigative or audit information that may be required to be divulged in order to carry out the duties specified under the contract.