

CHAPTER 1106**MISCELLANEOUS PUBLIC ASSISTANCE PROVISIONS AND RELATED MATTERS****S.F. 2324**

AN ACT relating to public assistance and certain associated state tax provisions involving the family investment program, family development and self-sufficiency council, individual development accounts, fraudulent practices involving the food stamp program, and child support obligations of minors, making penalties applicable, and providing applicability provisions and effective dates.

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

Division I - Family Investment Program Waiver Request

Section 1. WAIVER REQUEST. The department of human services shall submit a waiver request to the United States department of health and human services as necessary to implement the policy change proposed by this section in the family investment program under chapter 239 and the job opportunities and basic skills (JOBS) program under chapter 249C. The waiver request shall be for the purpose of simplifying administration of the programs. The policy change applies to the family investment agreement of a family investment program participant. Under the policy to be changed on the effective date of this Act, a family investment agreement ends at the point cash assistance under the program is not provided to the participant and a new agreement is required if the participant reapplies for cash assistance. Under the policy change adopted pursuant to this Act, if the period without cash assistance is one month or less and the participant has not become exempt from JOBS program participation at the time the participant reapplies for cash assistance, the participant's family investment agreement would be reinstated at the time the participant reapplies. The reinstated agreement may be revised to accommodate circumstances at the time of reapplication. For the purposes of this section, "participant" means a participant in the family investment program under chapter 239 and includes an individual whose income is considered in making eligibility and benefit determinations by the department of human services under the family investment program.

Sec. 2. CONTINGENCY PROVISION. The waiver request submitted by the department of human services pursuant to section 1 of this Act to the United States department of health and human services shall be to apply the provisions of section 1 statewide. If federal waiver approval of a provision of section 1 of this Act is granted, the department of human services shall implement the provision in accordance with the federal approval. If implementing a provision of section 1 of this Act is in conflict with a provision of chapter 239 or 249C, notwithstanding that provision in chapter 239 or 249C, the provision of section 1 shall be implemented. The department shall propose an amendment for the 1997 legislative session in accordance with the provisions of section 2.16 to chapter 239 or 249C to resolve the conflict and, as necessary to place the provisions of this division of this Act before the public in a codified statute.

Sec. 3. EMERGENCY RULES. The department of human services may adopt emergency rules under section 17A.4, subsection 2, and section 17A.5, subsection 2, paragraph "b", to implement the provisions of this division of this Act and the rules shall be effective immediately upon filing unless a later date is specified in the rules. If necessary to conform with federal waiver terms or to efficiently administer the provisions, the rules may apply additional policies and procedures which are consistent with the provisions of section 1 of this Act. Any rules adopted in accordance with this section shall also be published as a notice of intended action as provided in section 17A.4.

Sec. 4. APPLICABILITY. The effective date of the waiver provisions in section 1 of this Act granted by the federal government shall be July 1, 1996, unless federal approval is

granted after that date, in which case the effective date shall be the beginning of either the first or second month following the month in which the federal approval is granted, as specified in administrative rules adopted by the department. If federal law is amended to permit the state to initiate any of the provisions in section 1 of this Act without a federal waiver before July 1, 1996, the department of human services shall proceed to implement the provisions on July 1, 1996.

Sec. 5. EFFECTIVE DATE. This division of this Act, being deemed of immediate importance, takes effect upon enactment.

Division II – Family Development and Self-Sufficiency Council

Sec. 6. Section 217.11, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 10. Two persons representing the business community, selected by the other members of the council.

Division III – Individual Development Accounts

Sec. 7. Section 422.7, subsection 28, Code Supplement 1995, is amended to read as follows:

28. If the taxpayer is owner of an individual development account certified under chapter 541A at any time during the tax year, deductions of all of the following adjustments shall be made allowed:

a. ~~Subtract, to the extent included, all of the following:~~

(1) ~~a.~~ Contributions made to the account by persons and entities, other than the taxpayer, as authorized in chapter 541A.

(2) ~~b.~~ The amount of any savings refund authorized under section 541A.3, subsection 1.

(3) ~~c.~~ Earnings from the account ~~to the extent not withdrawn.~~

b. ~~Add, to the extent not included, all of the following:~~

(1) ~~Earnings from the account which are withdrawn.~~

(2) ~~Amounts withdrawn which are not authorized by section 541A.2, subsection 4, paragraphs "a" and "b" and which are attributable to contributions by persons and entities, other than the taxpayer, as provided in section 541A.2, subsection 4.~~

(3) ~~If the account is closed, amounts received by the taxpayer which have not previously been taxed under this division, except amounts that are redeposited in another individual development account, or the state human investment reserve pool as provided in section 541A.2, subsection 5, and including the total amount of any savings refund authorized under section 541A.3.~~

Sec. 8. Section 450.4, subsection 6, Code 1995, is amended to read as follows:

6. On property in an individual development account in the name of the decedent that passes to another individual development account, ~~up to ten thousand dollars~~, or the state human investment reserve pool created in section 541A.4. For purposes of this subsection, "individual development account" means an account that has been certified as an individual development account pursuant to chapter 541A.

Sec. 9. Section 541A.2, subsection 2, paragraph d, Code 1995, is amended to read as follows:

d. A deposit made on behalf of the account holder by an individual or a charitable contributor. This type of deposit may include but is not limited to moneys to match the account holder's deposits. ~~A deposit made under this paragraph shall be held in trust for the account holder and shall only be used to earn income in the account or to be withdrawn by the account holder for a purpose provided in subsection 4.~~

Sec. 10. Section 541A.2, subsections 4, 5, 6, 7, and 8, Code 1995, are amended to read as follows:

4. During a calendar year, an account holder may withdraw ~~without penalty~~ from the account holder's account the sum of the following:

a. With the approval of the operating organization, amounts withdrawn for any of the following approved purposes:

(1) Educational costs at an accredited institution of higher education.

(2) Training costs for an accredited or licensed training program.

(3) Purchase of a primary residence.

(4) Capitalization of a small business start-up.

(5) An improvement to a primary residence which increases the tax basis of the property.

(6) Emergency medical costs for the account holder or for a member of the account holder's family. However, a withdrawal for this purpose is limited to once during the life of the account and the amount of the withdrawal shall not exceed ten percent of the account balance at the time of the withdrawal. Amounts withdrawn for purposes of this paragraph shall be charged to the source of principal on a prorated basis. Moneys transferred from another individual development account shall be considered to be a deposit made by the account holder for purposes of charges to the source of principal.

~~b. At the adult account holder's discretion any income earned by the account. An account holder who is ten or more but less than eighteen years of age may withdraw any income earned by the account with the approval of the account holder's parent or guardian and of the operating organization. If the account holder is less than ten years of age, any income earned by the account may be withdrawn by the account holder's parent or guardian with the approval of the operating organization.~~

e. b. At the account holder's discretion, if the account holder is at least fifty-nine and one-half years of age, any amount.

~~5. If an An account holder is less than eighteen years of age, moneys shall not be withdrawn withdraw moneys from the holder's account unless the withdrawal is authorized under subsection 4. If an account holder is eighteen or more years of age, any amount of the adjusted account holder deposits withdrawn during a calendar year which is not authorized under subsection 4, is subject to a penalty of fifteen percent. In addition, if at any time the cumulative amount withdrawn by the account holder over the life of the account that is not authorized under subsection 4 exceeds fifty percent of the amount of the adjusted account holder deposits, the contributions made by a charitable or individual contributor held in trust in the account holder's account shall be removed from the account and redeposited in another individual development account or the reserve pool as directed by the contributor and deposits made by the state of a savings refund authorized under section 541A.3, subsection 1, shall be withdrawn and deposited in the reserve pool. The amount of the adjusted account holder deposits is the amount remaining after subtracting from the cumulative moneys deposited by the account holder all amounts withdrawn pursuant to subsection 4, paragraph "a". At the time a charitable or individual contributor contributes moneys to an account the contributor shall indicate the contributor's directions for disposition of moneys which are removed. If the designated choice of the contributor does not exist the contributed moneys shall be withdrawn and deposited in the reserve pool.~~

~~6. Penalty amounts collected pursuant to subsection 5 shall be deposited in the reserve pool.~~

~~7. 6. An adult account holder may transfer all or part of the assets the adult account holder has deposited in the account to any other account holder's account. However, an An account holder who is less than eighteen years of age is prohibited from transferring account assets to any other account holder. Moneys contributed by a charitable or individual contributor are not subject to transfer except as authorized by the contributor. Amounts transferred in accordance with this subsection are not subject to a penalty.~~

7. An individual development account closed in accordance with this subsection is not subject to the limitations and benefits provided by this chapter but is subject to state tax in

accordance with the provisions of section 422.7, subsection 28, and section 450.4, subsection 6. An individual development account may be closed for any of the following reasons:

a. The account's operating organization determines that the account holder has withdrawn moneys from the account for a purpose other than authorized under subsection 4.

b. The account's operating organization determines there has been no activity in the account during the preceding twelve months.

c. The account holder changes the account holder's place of primary residence to a new location outside the general geographic area served by the operating organization and an operating organization is not available in the new location.

d. The account's operating organization withdraws from involvement with the individual development account project and another operating organization is not available to operate the account.

8. If approved by the Subject to obtaining any necessary federal government waivers, the department of human services shall not consider moneys in an individual development account and any earnings on the moneys shall not be considered by the department of human services for in determining the eligibility or need of an individual for benefits or assistance or the amount of benefits or assistance under the family investment program under chapter 239, or the JOBS program under chapter 249C, or any other program administered by the department of human services.

Sec. 11. Section 541A.3, subsections 1 and 2, Code 1995, are amended to read as follows:

1. Payment by the state of a savings refund on amounts of up to two thousand dollars per calendar year that an account holder deposits in the account holder's account. Moneys transferred to an individual development account from another account shall not be considered an account holder deposit for purposes of determining a savings refund. Payment shall be made directly to the account in the most appropriate manner as determined by the administrator. The state savings refund shall be the indicated percentage of the amount deposited:

a. For an account holder with a household income, as defined in section 425.17, subsection 6, which is ~~less than~~ one hundred fifty percent or less of the federal poverty level, ~~twenty~~ twenty-five percent.

b. For an account holder with a household income which is more than one hundred fifty percent ~~or more~~ but less than one hundred ~~sixty~~ seventy-five percent of the federal poverty level, ~~eighteen~~ twenty percent.

c. For an account holder with a household income which is one hundred ~~sixty~~ seventy-five percent or more but less ~~not more than one~~ two hundred ~~seventy~~ percent of the federal poverty level, ~~sixteen~~ fifteen percent.

d. ~~For an account holder with a household income which is one hundred seventy percent or more but less than one hundred eighty percent of the federal poverty level, fourteen percent.~~

e. ~~For an account holder with a household income which is one hundred eighty percent or more but less than one hundred ninety percent of the federal poverty level, twelve percent.~~

f. ~~For an account holder with a household income which is one hundred ninety percent or more but less than two hundred percent of the federal poverty level, ten percent.~~

g. d. For an account holder with a household income which is more than two hundred percent ~~or more~~ of the federal poverty level, zero percent.

2. Income earned by an individual development account is not subject to state tax until withdrawn, in accordance with the provisions of section 422.7, subsection 28.

Sec. 12. Section 541A.4, subsection 1, Code 1995, is amended to read as follows:

1. ~~For~~ During the five-year ~~pilot phase~~ period beginning January 1, 1995, the total number of individual development accounts shall be limited to ten thousand accounts, with not

more than five thousand new accounts opened in the first any one calendar year of the period, and to individuals with a household income which does not exceed two hundred percent of the federal poverty level. ~~The administrator shall ensure that the family income status of account holders at the time an account is opened proportionately reflects the distribution of the household income status of the state's population up to two hundred percent of the federal poverty level.~~

Sec. 13. Section 541A.4, subsection 2, paragraph g, subparagraph (3), Code 1995, is amended by striking the subparagraph.

Sec. 14. Section 541A.5, Code 1995, is amended to read as follows:
541A.5 RULES.

The administrator, in consultation with the department of revenue and finance, ~~may~~ shall adopt administrative rules to ~~implement the provisions of~~ administer this chapter. The rules adopted by the administrator shall include but are not limited to provision for transfer of an individual development account to a different financial institution than originally approved by the administrator, if the different financial institution has an agreement with the account's operating organization.

Division IV – Food Stamp Program

Sec. 15. Section 234.13, Code 1995, is amended to read as follows:

234.13 FRAUDULENT PRACTICES RELATING TO FOOD PROGRAMS.

For the purposes of this section, unless the context otherwise requires, "benefit transfer instrument" means a food stamp coupon, authorization-to-purchase card, or electronic benefits transfer card. A person is ~~guilty of~~ commits a fraudulent practice if that person does any of the following:

1. With intent to gain financial assistance to which that person is not entitled, knowingly makes or causes to be made a false statement or representation or knowingly fails to report to an employee of the department of human services any change in income, resources or other circumstances affecting that person's entitlement to such financial assistance; ~~or,~~

2. As a beneficiary of the food programs, transfers any food stamp ~~coupons or an authorization to purchase card~~ benefit transfer instrument to any other individual with intent that such ~~coupons or card~~ the benefit transfer instrument be used for the benefit of someone other than persons within the beneficiary's food stamp household as certified by the department of human services; ~~or,~~

3. Knowingly acquires, uses or attempts to use any food stamp ~~coupon or authorization to purchase card~~ benefit transfer instrument which was not issued for the benefit of that person's food stamp household by the department of human services, or by an agency administering food programs in another state.

4. Acquires, alters, transfers, or redeems a food stamp ~~coupons~~ benefit transfer instrument or possesses ~~coupons~~ a benefit transfer instrument, knowing that the ~~coupons have~~ benefit transfer instrument has been received, transferred, or used in violation of this section or the provisions of the federal food stamp program under 7 U.S.C. ch. 51 or the federal regulations issued pursuant to that chapter.

Division V – Family Investment Program – Immunization

Sec. 16. NEW SECTION. 239.10 IMMUNIZATION.

1. To the extent feasible, the department shall determine the immunization status of children receiving assistance under this chapter. The status shall be determined in accordance with the immunization recommendations adopted by the Iowa department of public health under section 139.9, including the exemption provisions in section 139.9, subsection 4. If the department determines a child is not in compliance with the immunization

recommendations, the department shall refer the child's parent or guardian to a local public health agency for immunization services for the child and other members of the child's family.

2. The department of human services shall cooperate with the Iowa department of public health to establish an interagency agreement allowing the sharing of pertinent client data, as permitted under federal law and regulation, for the purposes of determining immunization rates of recipients of assistance, evaluating family investment program efforts to encourage immunizations, and developing strategies to further encourage immunization of recipients of assistance.

Division VI – Child Support

Sec. 17. Section 598.21, subsection 4, paragraph e, subparagraph (2), unnumbered paragraph 2, Code Supplement 1995, is amended to read as follows:

Failure to provide proof of compliance under this subparagraph or proof of compliance under section 598.21A is grounds for modification of the support order using the uniform child support guidelines and imputing an income to the parent equal to a forty-hour work week at the state minimum wage, unless the parent's education, experience, or actual earnings justify a higher income.

Sec. 18. NEW SECTION. 598.21A MINOR PARENT – PARENTING CLASSES.

In any order or judgment entered under chapter 234, 252A, 252C, 252F, 598, or 600B or under any other chapter which provides for temporary or permanent support payments, if the parent ordered to pay support is less than eighteen years of age, one of the following shall apply:

1. If the child support recovery unit is providing services pursuant to chapter 252B, the court, or the administrator as defined in section 252C.1, shall order the parent ordered to pay support to attend parenting classes which are approved by the department of human services.

2. If the child support recovery unit is not providing services pursuant to chapter 252B, the court may order the parent ordered to pay support to attend parenting classes which are approved by the court.

Sec. 19. EFFECTIVE DATE. This division of this Act takes effect July 1, 1997.

Approved April 16, 1996

CHAPTER 1107

MEDICAL ASSISTANCE

S.F. 2303

AN ACT relating to the medical assistance program including provisions relating to personal liability of personal representatives of medical assistance recipients, nursing facility fines, and transfers of assets.

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

Section 1. Section 249A.5, subsection 2, paragraph f, Code Supplement 1995, is amended to read as follows:

f. (1) If a debt is due under this subsection from the estate of a recipient, the administrator of the nursing facility, intermediate care facility for the mentally retarded, or mental