

## CHAPTER 136

### PERSONS WITH DISABILITIES — TRUSTS AND TRUST FUND MONEYS

H.F. 835

AN ACT relating to trusts for persons with disabilities.

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

Section 1. [Section 12I.1, subsection 2](#), paragraphs b and g, Code 2021, are amended to read as follows:

b. “Account owner” means an individual who ~~enters into~~ is the designated beneficiary under a participation agreement under [this chapter](#) for the payment of qualified disability expenses on behalf of a the designated beneficiary.

g. “Participation agreement” means an agreement ~~between the account owner and establishing an account with the trust entered into under~~ [this chapter](#).

Sec. 2. [Section 12I.2, subsection 7](#), Code 2021, is amended to read as follows:

7. Enter into participation agreements ~~with account owners.~~

Sec. 3. [Section 12I.3](#), unnumbered paragraph 1, Code 2021, is amended to read as follows:

On or after July 1, 2016, the trust may enter into participation agreements ~~with account owners~~ pursuant to the following terms and agreements:

Sec. 4. [Section 12I.3, subsection 1](#), paragraph b, Code 2021, is amended to read as follows:

b. Unless otherwise permitted under section 529A of the Internal Revenue Code, the account owner must also be the designated beneficiary of the account. ~~However, a trustee or legal guardian may be designated as custodian of an account for a designated beneficiary who is a minor or who lacks capacity to enter into a participation agreement if such designation is not prohibited under section 529A of the Internal Revenue Code. A person other than the account owner may enter into a participation agreement and have signature authority over the account on behalf of the account owner in accordance with section 529A of the Internal Revenue Code and regulations promulgated under that section.~~

Sec. 5. [Section 12I.3, subsection 1](#), Code 2021, is amended by adding the following new paragraph:

NEW PARAGRAPH. g. Any funds retained in a medical assistance special needs trust pursuant to [chapter 633C](#), or in a supplemental needs trust pursuant to [chapter 634A](#), may be transferred to the Iowa ABLE savings plan trust account of a designated beneficiary who is also the beneficiary of any such trust, in accordance with the applicable provisions of [chapters 633C](#), [634A](#), and [this chapter](#).

Sec. 6. [Section 12I.4, subsection 3](#), Code 2021, is amended to read as follows:

3. Moneys in the account of a designated beneficiary ~~may~~ shall not be claimed by the Iowa Medicaid program as ~~provided~~ authorized in section 529A(f) of the Internal Revenue Code ~~and subject to limitations imposed by the treasurer of state unless such claim is required to maintain qualified ABLE program status under section 529A of the Internal Revenue Code.~~

Sec. 7. [Section 249A.53](#), Code 2021, is amended by adding the following new subsection:

NEW SUBSECTION. 3. a. Following the death of an individual who is a designated beneficiary of an account established under a participation agreement pursuant to [chapter 12I](#), all of the following shall apply to the extent permitted pursuant to [chapter 12I](#) and under federal law including section 529A of the Internal Revenue Code:

(1) The department shall not seek recovery of any account balance remaining in the designated beneficiary’s account for medical assistance paid to or on behalf of the designated beneficiary on or after the date the participation agreement was entered into and the account established for the designated beneficiary.

(2) The department shall not file a claim for payment under section 529A(f) of the Internal Revenue Code.

(3) Any account balance remaining in the designated beneficiary's account may be transferred to an account for another eligible individual specified by the designated beneficiary, or if another eligible beneficiary is not so designated, then the account balance shall be transferred to the estate of the designated beneficiary or to the successor as defined in [section 633.356](#).

b. For the purposes of [this section](#), “designated beneficiary”, “Internal Revenue Code”, and “participation agreement” mean the same as defined in [section 12I.1](#).

c. For the purposes of [this section](#), “eligible individual” means the same as defined in section 529A of the Internal Revenue Code.

Sec. 8. [Section 633C.2](#), Code 2021, is amended to read as follows:

**633C.2 Disposition of medical assistance special needs trusts.**

Any income or assets added to or received by and any income or principal retained in a medical assistance special needs trust shall be used in accordance with a standard that is no more restrictive than specified under federal law. All distributions from a medical assistance special needs trust shall be for the sole benefit of the beneficiary to enhance the quality of life of the beneficiary, and the trustee shall have sole discretion regarding such disbursements to ensure compliance with beneficiary eligibility requirements. Any funds retained in the medical assistance special needs trust of a beneficiary who is also a designated beneficiary as defined in [section 12I.1](#) may be transferred to the Iowa ABLÉ savings plan trust account of the designated beneficiary in accordance with [this chapter](#) and [chapter 12I](#). Any distinct disbursement in excess of one thousand dollars shall be subject to review by the district court sitting in probate. The department shall adopt rules pursuant to [chapter 17A](#) for the establishment and disposition of medical assistance special needs trusts in accordance with [this section](#).

Sec. 9. [Section 634A.2](#), Code 2021, is amended by adding the following new subsection:

**NEW SUBSECTION.** 8. Any funds retained in a supplemental needs trust of a beneficiary who is also a designated beneficiary as defined in [section 12I.1](#) may be transferred to the Iowa ABLÉ savings plan trust account of the designated beneficiary in accordance with [this chapter](#) and [chapter 12I](#).

Approved May 20, 2021