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HUMAN RESOURCES

HOUSE FILE 353

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(COMPANION TO LSB 1389SS
BY BRUNKHORST)

HF 353

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to asset disregard under the medical assistance
2 program for the purchase of a certified long-term care
3 insurance policy, providing for a repeal, providing a
4 contingent effective date, and providing an appropriation.
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. NEW SECTION. 249J.1 DEFINITIONS.

2 As used in this chapter, unless the context otherwise
3 requires:

4 1. "Certified long-term care insurance policy" means a
5 long-term care insurance contract that is issued by an insurer
6 or other person who complies with section 249J.4.

7 2. "Long-term care facility" means a facility licensed
8 under chapter 135C or an assisted living program certified
9 under chapter 231C.

10 3. "Long-term care insurance" means long-term care
11 insurance as defined in section 514G.4 and regulated in
12 section 514G.7.

13 4. "Qualified long-term care services" means qualified
14 long-term care services as defined in section 7702B(c) of the
15 Internal Revenue Code.

16 Sec. 2. NEW SECTION. 249J.2 IOWA LONG-TERM CARE ASSET
17 DISREGARD INCENTIVE PROGRAM -- ESTABLISHMENT AND
18 ADMINISTRATION.

19 1. The Iowa long-term care asset disregard incentive
20 program is established to do all of the following:

21 a. Provide incentives for individuals to insure against
22 the costs of providing for their long-term care needs.

23 b. Provide a mechanism for individuals to qualify for
24 coverage of the costs of their long-term care needs under the
25 medical assistance program without first being required to
26 substantially exhaust all their resources.

27 c. Assist in developing methods for increasing access to
28 and the affordability of long-term care insurance.

29 d. Alleviate the financial burden on the state's medical
30 assistance program by encouraging the pursuit of private
31 initiatives.

32 2. The insurance division of the department of commerce
33 shall administer the program in cooperation with the division
34 responsible for medical services within the department of
35 human services. Each agency shall take appropriate action to

1 maintain the waiver granted by the centers for Medicare and
2 Medicaid services of the United States department of health
3 and human services under 42 U.S.C. § 1396 relating to
4 providing medical assistance under chapter 249A, in effect
5 prior to the effective date of this Act.

6 Sec. 3. NEW SECTION. 249J.3 ELIGIBILITY.

7 An individual who is the beneficiary of a certified long-
8 term care insurance policy approved by the insurance division
9 is eligible for assistance under the medical assistance
10 program using the asset disregard provisions pursuant to
11 section 249J.5.

12 Sec. 4. NEW SECTION. 249J.4 INSURER REQUIREMENTS.

13 1. An insurer or other person who wishes to issue a
14 certified long-term care insurance policy meeting the
15 requirements of this chapter shall, at a minimum, offer to
16 each policyholder or prospective policyholder a policy that
17 provides both of the following:

18 a. Facility coverage, including but not limited to long-
19 term care facility coverage.

20 b. Nonfacility coverage, including but not limited to home
21 and community-based care coverage.

22 2. An insurer or other person who complies with subsection
23 1 may also elect to offer a certified long-term care insurance
24 policy that provides only facility coverage.

25 Sec. 5. NEW SECTION. 249J.5 ASSET DISREGARD ADJUSTMENT.

26 1. As used in this section, "asset disregard" means a one
27 dollar increase in the amount of assets an individual who
28 purchases a certified long-term care insurance policy and
29 meets the requirements of section 249J.3 may retain under
30 section 249A.35 for each one dollar of benefit paid out under
31 the individual's certified long-term care insurance policy for
32 qualified long-term care services if the policy meets all of
33 the following criteria:

34 a. If purchased prior to January 1, 2005, provides
35 benefits in an amount equal to at least one hundred thirty

1 thousand dollars as computed on January 1, 2005.

2 b. If purchased on or after January 1, 2005, provides
3 benefits in an amount equal to at least one hundred thirty
4 thousand dollars as computed on January 1, 2005, compounded
5 annually by at least five percent, or an amount equal to at
6 least the minimum face amount specified by the commissioner of
7 insurance pursuant to subsection 3, whichever amount is
8 greater.

9 c. Includes a provision under which the total amount of
10 the benefit increases by at least five percent, compounded
11 annually.

12 2. When the division responsible for medical services
13 within the department of human services determines whether an
14 individual is eligible for medical assistance under chapter
15 249A, the division shall make an asset disregard adjustment
16 for any individual who meets the requirements of section
17 249J.3. The asset disregard shall be available after benefits
18 of the certified long-term care insurance policy have been
19 applied to the cost of qualified long-term care services as
20 required under this chapter.

21 3. Beginning September 1, 2006, or one year after the
22 effective date of this Act, whichever is later, the
23 commissioner of insurance shall issue a bulletin annually on
24 that date, declaring the minimum face amount for policies to
25 qualify for the Iowa long-term care asset disregard incentive
26 program for the following calendar year. In making this
27 determination, the commissioner shall consult with the
28 division responsible for collecting data on average nursing
29 home costs in Iowa. Additionally, in making this
30 determination, the commissioner shall consider the current
31 average daily cost for three years of nursing home care and
32 other relevant information.

33 Sec. 6. NEW SECTION. 249J.6 APPLICATION OF ASSET
34 DISREGARD TO DETERMINATION OF INDIVIDUAL'S ASSETS.

35 A public program administered by the state that provides

1 long-term care services and bases eligibility upon the amount
2 of the individual's assets shall apply the asset disregard
3 under section 249J.5 in determining the amount of the
4 individual's assets.

5 Sec. 7. NEW SECTION. 249J.7 PRIOR PROGRAM --
6 DISCONTINUATION OF PROGRAM.

7 1. If the Iowa long-term care asset disregard incentive
8 program is discontinued, an individual who is covered by a
9 certified long-term care insurance policy prior to the date
10 the program is discontinued is eligible to continue to receive
11 an asset disregard as defined under section 249J.5.

12 2. An individual who is covered by a long-term care
13 insurance policy under the long-term care asset preservation
14 program established pursuant to chapter 249G, Code 2005, on or
15 before the effective date of this Act, is eligible to continue
16 to receive the asset adjustment as defined under that chapter.

17 3. The insurance division shall adopt rules to provide an
18 asset disregard to individuals who are covered by a long-term
19 care insurance policy prior to the effective date of this Act,
20 consistent with the Iowa long-term care asset disregard
21 incentive program.

22 Sec. 8. NEW SECTION. 249J.8 RECIPROCAL AGREEMENTS TO
23 EXTEND ASSET DISREGARD.

24 The division responsible for medical services within the
25 department of human services may enter into reciprocal
26 agreements with other states to extend the asset disregard
27 under section 249J.5 to Iowa residents who had purchased or
28 were covered by certified long-term care insurance policies in
29 other states.

30 Sec. 9. NEW SECTION. 249J.9 RULES.

31 The department of human services and the insurance division
32 of the department of commerce shall adopt rules pursuant to
33 chapter 17A as necessary to administer this chapter. The
34 insurance division shall consult with representatives of the
35 insurance industry in adopting such rules. This delegation of

1 rulemaking authority shall be construed narrowly.

2 Sec. 10. NEW SECTION. 249A.35 PURCHASE OF CERTIFIED
3 LONG-TERM CARE INSURANCE POLICY -- COMPUTATION UNDER MEDICAL
4 ASSISTANCE PROGRAM.

5 A computation for the purposes of determining eligibility
6 under this chapter concerning an individual who has purchased
7 a certified long-term care insurance policy under chapter 249J
8 shall include consideration of the asset disregard provided in
9 section 249J.5.

10 Sec. 11. Chapter 249G, Code 2005, is repealed.

11 Sec. 12. MEDICAID STATE PLAN WAIVERS.

12 1. The department shall amend the medical assistance state
13 plan to provide that all amounts paid for qualified long-term
14 care services under a certified long-term care insurance
15 policy shall be considered in determining the amount of the
16 asset disregard.

17 2. The department of human services shall seek approval of
18 a state plan amendment or make application to the United
19 States department of health and human services for any waivers
20 necessary to implement chapter 249J, as enacted in this Act.

21 Sec. 13. CONTINGENT EFFECTIVE DATE -- IOWA LONG-TERM CARE
22 ASSET DISREGARD INCENTIVE PROGRAM.

23 1. This Act shall not take effect until both of the
24 following conditions are met:

25 a. Funding is specifically appropriated to the insurance
26 division of the department of commerce for the purpose of the
27 Iowa long-term care asset disregard incentive program. The
28 insurance division shall notify the Code editor if such
29 appropriation is made.

30 b. All necessary Medicaid state plan amendments and
31 waivers are approved by the United States department of health
32 and human services. The department of human services shall
33 notify the Code editor if such approval is received.

34 2. If the requirements of subsection 1 are met, the
35 program shall begin no sooner than six months following the

1 date that both requirements are met.

2 Sec. 14. APPROPRIATION. There is appropriated from the
 3 general fund of the state to the division of insurance of the
 4 department of commerce for the fiscal year beginning July 1,
 5 2005, and ending June 30, 2006, the following amount, or so
 6 much thereof as is necessary, to establish an educational
 7 program to inform Iowans regarding the Iowa long-term care
 8 asset disregard incentive program and for up to the following
 9 full-time equivalent positions:

10	\$	300,000
11	FTEs	2.00

12 EXPLANATION

13 This bill establishes an Iowa long-term care asset
 14 disregard incentive program to provide incentives for
 15 individuals to insure against the costs of their long-term
 16 care needs, provide a mechanism for individuals to qualify for
 17 coverage of the costs of their long-term care needs under the
 18 medical assistance program without first being required to
 19 substantially exhaust all their resources, increase access to
 20 and the affordability of long-term care insurance, and
 21 alleviate the financial burden on the state's medical
 22 assistance program by encouraging the pursuit of private
 23 initiatives. The bill directs the insurance division of the
 24 department of commerce to administer the program in
 25 cooperation with the division responsible for medical services
 26 within the department of human services. The bill directs the
 27 department of human services and the division of insurance to
 28 each take appropriate action to maintain the waiver granted by
 29 the centers for Medicare and Medicaid services of the United
 30 States department of health and human services under 42 U.S.C.
 31 § 1396 relating to providing assistance under Code chapter
 32 249A, in effect prior to the effective date of the bill.

33 The bill requires insurers who wish to issue certified
 34 long-term care insurance policies that meet the requirements
 35 of the bill to offer, at a minimum, a policy that provides

1 both facility coverage and nonfacility coverage. If the
2 insurer provides both types of coverage, the insurer may also
3 offer a policy that provides only facility coverage.

4 Under the bill, an individual who purchases or is covered
5 by a certified long-term care insurance policy would be
6 allowed an asset disregard under the medical assistance
7 program. The asset disregard is a \$1 increase in the amount
8 of assets the individual may retain under the medical
9 assistance program for each \$1 of benefits paid out under the
10 individual's certified long-term care insurance policy for
11 qualified long-term care services if the benefits meet minimum
12 amounts established in the bill.

13 The bill also provides that beginning September 1, 2006, or
14 one year after the effective date of the bill, whichever is
15 later, the commissioner of insurance is to issue a bulletin on
16 September 1 of each year, declaring the minimum face amount
17 for policies to qualify for the asset disregard program for
18 the following calendar year. In making this determination,
19 the commissioner is to consult with the division responsible
20 for collecting data on average nursing home costs in Iowa.
21 Additionally, in making this determination, the commissioner
22 is to consider the current average daily cost for three years
23 of nursing home care and other relevant information.

24 The bill provides that if the Iowa long-term care asset
25 disregard incentive program is discontinued, an individual who
26 purchased or is covered under a certified long-term care
27 insurance policy prior to the date the program is discontinued
28 is eligible to continue to receive an asset disregard under
29 the bill. The bill allows an individual participating in the
30 asset preservation program existing on the effective date of
31 the bill to continue to receive that asset adjustment and
32 directs the department to adopt rules to allow an individual
33 who purchased long-term care insurance prior to the effective
34 date of the bill to receive an asset disregard incentive. The
35 bill allows for reciprocal agreements to extend the asset

1 disregard program to Iowa residents who have purchased or are
2 covered under certified long-term care insurance policies in
3 other states.

4 The bill authorizes the department of human services and
5 the insurance division to adopt rules to administer this new
6 Code chapter, but this authority is to be construed narrowly.
7 The insurance division is directed to consult with
8 representatives of the insurance industry in adopting such
9 rules.

10 The bill directs the department of human services to amend
11 the medical assistance state plan to allow for disregard of
12 all amounts paid out under a certified long-term care
13 insurance policy and to seek approval of a state plan
14 amendment or any waiver necessary from the federal government
15 to implement the bill.

16 The bill repeals Code chapter 249G, the current long-term
17 care asset preservation program.

18 The bill provides that the long-term care asset disregard
19 incentive program and other provisions of the bill take effect
20 only if funds are specifically appropriated to the insurance
21 division for that purpose, only if the necessary Medicaid
22 state plan amendment and waiver are approved, and then no
23 sooner than six months after both of those requirements are
24 met.

25 The bill appropriates \$300,000 from the general fund of the
26 state to the division of insurance of the department of
27 commerce for the fiscal year beginning July 1, 2005, and
28 ending June 30, 2006, to establish an educational program to
29 inform Iowans regarding the Iowa long-term care asset
30 disregard incentive program and for up to two full-time
31 equivalent positions.

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