

3. Psychiatrists at the medical assistance program fee for service rate.

Implementation of the provisions of this section is contingent upon receipt of federal approval and limited to the funding made available through amending the contract with the managed care contractor.

DIVISION VI
STATE MANDATE

Sec. 37. IMPLEMENTATION OF ACT. Section 25B.2, subsection 3, shall not apply to this Act.

Approved May 23, 2006

CHAPTER 1116

INVOLUNTARY HOSPITALIZATION PROCEEDINGS

S.F. 2362

AN ACT relating to involuntary hospitalization proceedings for chronic substance abusers and persons with mental illness.

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

Section 1. Section 125.82, subsections 1 and 3, Code 2005, are amended to read as follows:

1. At a commitment hearing, evidence in support of the contentions made in the application shall may be presented by the applicant, or by an attorney for the applicant, or by the county attorney ~~if the county attorney is the applicant~~. During the hearing the applicant and the respondent shall be afforded an opportunity to testify and to present and cross-examine witnesses, and the court may receive the testimony of other interested persons. If the respondent is present at the hearing, as provided in subsection 3, and has been medicated within twelve hours, or a longer period of time as the court may designate, prior to the beginning of the hearing or a session of the hearing, the court shall be informed of that fact and of the probable effects of the medication upon convening of the hearing.

3. The person who filed the application and a physician or professional who has examined the respondent in connection with the commitment hearing shall be present at the hearing, unless prior to the hearing the court for good cause finds that their presence or testimony is not necessary. The applicant, respondent, and the respondent's attorney may waive the presence or telephonic appearance of the physician or professional who examined the respondent and agree to submit as evidence the written report of the physician or professional. "Good cause" for finding that the testimony of the physician or professional who examined the respondent is not necessary may include, but is not limited to, such a waiver. If the court determines that the testimony of the physician or professional is necessary, the court may allow the physician or professional to testify by telephone. The respondent shall be present at the hearing unless prior to the hearing the respondent's attorney stipulates in writing that the attorney has conversed with the respondent, and that in the attorney's judgment the respondent cannot make a meaningful contribution to the hearing, or that the respondent has waived the right to be present, and the basis for the attorney's conclusions. A stipulation to the respondent's absence shall be reviewed by the court before the hearing, and may be rejected if it appears

that insufficient grounds are stated or that the respondent's interests would not be served by the respondent's absence.¹

Sec. 2. Section 229.10, subsection 1, unnumbered paragraph 1, Code 2005, is amended to read as follows:

An examination of the respondent shall be conducted by one or more licensed physicians, as required by the court's order, within a reasonable time. If the respondent is detained pursuant to section 229.11, subsection 2, the examination shall be conducted within twenty-four hours. If the respondent is detained pursuant to section 229.11, subsection 1 or 3, the examination shall be conducted within forty-eight hours. If the respondent so desires, the respondent shall be entitled to a separate examination by a licensed physician of the respondent's own choice. The reasonable cost of ~~such separate examination~~ the examinations shall, if the respondent lacks sufficient funds to pay the cost, be paid from county funds upon order of the court.

Sec. 3. Section 229.12, subsection 3, Code 2005, is amended to read as follows:

3. The respondent's welfare shall be paramount and the hearing shall be conducted in as informal a manner as may be consistent with orderly procedure, but consistent therewith the issue shall be tried as a civil matter. Such discovery as is permitted under the Iowa rules of civil procedure shall be available to the respondent. The court shall receive all relevant and material evidence which may be offered and need not be bound by the rules of evidence. There shall be a presumption in favor of the respondent, and the burden of evidence in support of the contentions made in the application shall be upon the applicant. The physician or professional who examined the respondent shall be present at the hearing unless prior to the hearing the court for good cause finds that the physician's or professional's presence or testimony is not necessary. The applicant, respondent, and the respondent's attorney may waive the presence or the telephonic appearance of the physician or professional who examined the respondent and agree to submit as evidence the written report of the physician or professional. "Good cause" for finding that the testimony of the physician or professional who examined the respondent is not necessary may include, but is not limited to, such a waiver. If the court determines that the testimony of the physician or professional is necessary, the court may allow the physician or the professional to testify by telephone. If upon completion of the hearing the court finds that the contention that the respondent is seriously mentally impaired has not been sustained by clear and convincing evidence, it shall deny the application and terminate the proceeding.²

Approved May 24, 2006

¹ See chapter 1159, §30; chapter 1115, §1 herein

² See chapter 1159, §31 herein

CHAPTER 1117**INSURANCE AND OTHER ENTITIES OR SERVICES
REGULATED BY THE COMMISSIONER OF INSURANCE***S.F. 2364*

AN ACT relating to various matters under the purview of the insurance division of the department of commerce including the securities and regulated industries bureau, insurance premium taxes, the uniform securities Act, insurance division procedures including fees and an appropriation, regulation of insurance companies and other entities including administrative penalties, motor vehicle service contracts, county and state mutual insurance associations, reciprocal or interinsurance insurers, consolidation, merger and reinsurance contracts, insurance holding company systems, and cemeteries.

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

Section 1. Section 11.6, subsection 1, paragraph b, subparagraph (6), Code Supplement 2005, is amended to read as follows:

(6) A joint investment trust organized pursuant to chapter 28E shall file the audit reports required by this chapter with the administrator of the securities and regulated industries bureau of the insurance division of the department of commerce within ten days of receipt from the auditor. The auditor of a joint investment trust shall provide written notice to the administrator of the time of delivery of the reports to the joint investment trust.

Sec. 2. Section 22.7, Code Supplement 2005, is amended by adding the following new subsections:

NEW SUBSECTION. 52. Information obtained and prepared by the commissioner of insurance pursuant to section 507.14.

NEW SUBSECTION. 53. Information obtained and prepared by the commissioner of insurance pursuant to section 507E.5.

Sec. 3. Section 432.1, subsection 3, Code Supplement 2005, is amended to read as follows:

3. The applicable percent, as provided in subsection 4, of the gross amount of premiums, assessments, and fees received during the preceding calendar year by every company or association other than life on contracts of insurance other than life for business done in this state, including all insurance upon property situated in this state, after deducting the amounts returned upon canceled policies, certificates and rejected applications but not including the gross premiums written, assessments, and fees in connection with ocean marine insurance authorized in section 515.48.

Sec. 4. Section 432.5, Code 2005, is amended to read as follows:

432.5 RISK RETENTION GROUPS.

A risk retention group organized and operating pursuant to Pub. L. No. 99-563, also known as the risk retention amendments of 1986, shall pay as taxes to the director of revenue an amount equal to the applicable percent, as provided in section 432.1, subsection 4, of the gross amount of the premiums ~~received~~ written during the previous calendar year for risks placed in this state. A resident or nonresident producer shall report and pay the taxes on the premiums for risks that the producer has placed in this state with or on behalf of a risk retention group. The failure of a risk retention group to pay the tax imposed in this section shall result in the risk retention group being considered an unauthorized insurer under chapter 507A.

Sec. 5. Section 502.102, subsection 5, paragraph b, subparagraph (3), Code Supplement 2005, is amended to read as follows:

(3) An industrial loan company that is not an "insured depository institution" as defined in