

Reprinted

FILED MAR 06 1992

SENATE FILE 2311

BY COMMITTEE ON HUMAN RESOURCES

Amended (p. 988)

(SUCCESSOR TO SSB 2089)

Passed Senate, Date 3/25/92 (p. 988)

Passed House, Date 4/1/92 (p. 979)

Vote: Ayes 46 Nays 0

Vote: Ayes 100 Nays 0

Approved 4-9-92

*Motion to reconsider (p. 988)
w/d 3/26 (p. 1008)*

A BILL FOR

1 An Act relating to medical assistance program requirements
2 involving health care facilities, certificates of need, and
3 specified low-income federal medicare beneficiaries.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24

SF 2311

1 Section 1. Section 135.63, subsection 2, Code Supplement
2 1991, is amended by adding the following new paragraph:

3 NEW PARAGRAPH. i. An institution exempt from licensing as
4 a health care facility under chapter 135C in accordance with
5 section 135C.6, subsection 8.

6 Sec. 2. Section 135.64, Code Supplement 1991, is amended
7 by adding the following new subsection:

8 NEW SUBSECTION. 4. In determining whether to approve an
9 application for a certificate of need for the construction or
10 conversion of an intermediate care facility for the mentally
11 retarded, the department and the council shall only approve
12 the application if, in addition to other applicable standards,
13 the application meets the standards applied to intermediate
14 care facilities for the mentally retarded for family scale and
15 size, location, and community inclusion as provided in rules
16 adopted by the department of human services.

17 Sec. 3. Section 135C.6, Code 1991, is amended by adding
18 the following new subsection:

19 NEW SUBSECTION. 8. An institution which provides care to
20 not more than three individuals and receives moneys
21 appropriated to the department of human services under
22 provisions of a federally approved home and community-based
23 services waiver or other medical assistance program under
24 chapter 249A, to which the department of human services
25 applies accreditation, certification, and standards of review,
26 may operate and shall not be required to be licensed as a
27 health care facility under this chapter.

28 Sec. 4. Section 249A.3, subsection 8, Code Supplement
29 1991, is amended to read as follows:

30 8. Medicare cost sharing shall be provided in accordance
31 with the provisions of Title XIX of the federal Social
32 Security Act, section 1902(a)(10)(E), as codified in 42 U.S.C.
33 § 1396a(a)(10)(E), to or on behalf of an individual who is a
34 resident of the state or a resident who is temporarily absent
35 from the state, and who is either a member of any of the

1 following eligibility categories:

2 a. A qualified medicare beneficiary as defined under Title
3 XIX of the federal Social Security Act, section 1905(p)(1), as
4 codified in 42 U.S.C. § 1396d(p)(1). or-a

5 b. A qualified disabled and working person as defined
6 under Title XIX of the federal Social Security Act, section
7 1905(s), as codified in 42 U.S.C. § 1396d(s).

8 c. A specified low-income medicare beneficiary as defined
9 under Title XIX of the federal Social Security Act, section
10 1902(a)(10)(E), as codified in 42 U.S.C. § 1396a(10)(E)(iii).

11

EXPLANATION

12 This bill relates to medical assistance program
13 requirements involving health care facilities, certificates of
14 need, and specified low-income federal medicare beneficiaries.

15 Sections 1 and 3 are related with section 1 providing an
16 exclusion to certificate of need requirements for institutions
17 described in section 3. Section 3 exempts certain
18 institutions from the requirement to be licensed as a health
19 care facility if the institutions are funded under the medical
20 assistance program and are authorized under a federally
21 approved waiver or other medical assistance program and meet
22 various department of human services requirements. The
23 exemption applies to all licensing categories under chapter
24 135C including residential care facility, nursing facility,
25 intermediate care facility for the mentally ill, and
26 intermediate care facility for the mentally retarded. The
27 exempt institutions cannot provide care to more than three
28 individuals.

29 Section 2 relates to determinations as to whether a
30 certificate of need is issued for construction or conversion
31 of an intermediate care facility for the mentally retarded
32 (ICFMR). In review of an application relating to an ICFMR, in
33 addition to other requirements, the health facilities council
34 and the Iowa department of public health must also consider
35 whether various department of human services standards are

1 met. The standards relate to family scale and size, location,
2 and community inclusion.

3 Section 4 relates to medicare cost sharing, which is a
4 mandatory medical assistance coverage group under chapter
5 249A. A third eligibility category for this group is
6 established and the subsection is divided to list each of the
7 three categories in a lettered paragraph. The new category is
8 required by the federal government to be part of the state's
9 medical assistance plan. It applies to individuals who would
10 meet existing requirements to qualify for medicare cost
11 sharing except for having income in excess of certain amounts.
12 Federal law establishes the income eligibility as equal to the
13 state's official poverty line in the 1992-1993 fiscal year and
14 increases the amount in 1993 and again in 1995.

15

16

17

18

19

20

21

22

23

24

25

26

27

28

29

30

31

32

33

34

35

SENATE FILE 2311

S-5333

1 Amend Senate File 2311 as follows:

2 1. Page 1, line 3, by striking the words "An
3 institution" and inserting the following: "A
4 residential program".

5 2. Page 1, line 19, by striking the words "An
6 institution" and inserting the following: "The
7 following residential programs to which the department
8 of human services applies accreditation,
9 certification, or standards of review shall not be
10 required to be licensed as a health care facility
11 under this chapter:

12 a. A residential program".

13 3. Page 1, by striking lines 24 through 27 and
14 inserting the following: "chapter 249A.

15 b. A residential program which serves not more
16 than four individuals and is operating under
17 provisions of a federally approved home and community-
18 based waiver for persons with mental retardation, if
19 all individuals residing in the program receive on-
20 site staff supervision during the entire time period
21 the individuals are present in the program's living
22 unit. The need for the on-site supervision shall be
23 reflected in each individual's program plan developed
24 pursuant to the department of human services' rules
25 relating to case management for persons with mental
26 retardation. In approving a residential program under
27 this paragraph, the department of human services shall
28 consider the geographic location of the program so as
29 to avoid an overconcentration of such programs in an
30 area."

31 4. Page 2, by inserting after line 10 the
32 following:

33 "Sec. 100. HOME AND COMMUNITY-BASED WAIVER REPORT.
34 The department of human services shall monitor the
35 implementation of the federally approved home and
36 community-based waiver program for persons with mental
37 retardation under the medical assistance program. The
38 department shall submit a report concerning the waiver
39 program to the governor and the general assembly on or
40 before February 15, 1993, which shall include but is
41 not limited to all of the following information
42 relating to the waiver program:

43 1. The number of persons served under the waiver
44 program, services received by the persons prior to
45 receiving the waiver program services, and the
46 persons' living environments prior to receiving the
47 waiver program services.

48 2. The number of four-bed residential program
49 applications received by the department, the number
50 approved, the number denied, and the reasons for

S-5333

-1-

S-5333

Page 2

1 granting or denying the applications.

2 3. The number of persons who meet the criteria for
3 service in a four-bed residential program who were
4 actually served in a three or fewer bed residential
5 program.

6 4. The number of requests received by the
7 department for waiver of the seventy dollars per day
8 reimbursement cap, the number of requests granted, the
9 number of requests denied, and the reasons for
10 granting or denying the requests. The staffing needs
11 of the individuals living in the residential programs
12 making the waiver requests and the number of the
13 requests submitted from programs with three or fewer
14 beds.

15 5. Recommendations to the governor and the general
16 assembly concerning the reallocation of funding under
17 the waiver program based upon the actual utilization
18 of the waiver program and the advisability of
19 increasing the waiver program's seventy dollars per
20 day reimbursement cap on community living
21 arrangements.

22 Sec. 200. EMERGENCY RULES. The department of
23 human services shall adopt administrative rules under
24 section 17A.4, subsection 2, and section 17A.5,
25 subsection 2, paragraph "b", to implement the
26 provisions of section 3 of this Act and the rules
27 shall become effective upon filing unless a later date
28 is specified in the rules. Any rules adopted pursuant
29 to this section shall also be published as a notice of
30 intended action as provided in section 17A.4.

31 Sec. _____. IMPLEMENTATION LIMITATION -- LEGISLATIVE
32 INTENT. During the initial implementation period
33 beginning March 1, 1992, and ending February 28, 1993,
34 of the residential programs which serve not more than
35 four individuals under section 135C.6, subsection 8,
36 paragraph "b", the number of beds in residential
37 programs approved by the department of human services
38 under that provision shall be limited to a total of
39 forty beds. It is the intent of the general assembly
40 to review the report submitted by the department of
41 human services pursuant to section 100 of this Act in
42 order to determine whether any further limitation is
43 appropriate.

44 Sec. _____. EFFECTIVE DATE. Sections 1, 3, and 200
45 of this Act, being deemed of immediate importance,
46 take effect upon enactment."

47 5. Title page, line 3, by inserting after the
48 word "beneficiaries" the following: ", and providing
49 an effective date".

50 6. By renumbering as necessary.

By AL STURGEON

S-5333 FILED MARCH 20, 1992

Adopted 3/25 (p. 987)

SENATE FILE 2311
FISCAL NOTE

A fiscal note for Senate File 2311 is hereby submitted pursuant to Joint Rule 17. Data used in developing this fiscal note is available from the Legislative Fiscal Bureau to members of the Legislature upon request.

Senate File 2311 relates to Medical Assistance program requirements involving health care facilities, certificates of need, and specified low-income federal Medicare beneficiaries.

The bill specifies that when determining whether an application for a certificate of need for an intermediate care facility for the mentally retarded (ICF-MR) is approved, the Department of Public Health (DPH) and the Health Facilities Council shall only approve the application if, in addition to other standards, the application meets the standards applied to ICF-MRs as provided in rules adopted by the Department of Human Services (DHS). These standards relate to family scale and size, location, and community inclusion.

Institutions which provide services to 3 or fewer persons and receive funds under provisions of the DHS' home and community-based waiver or other specified Medical Assistance programs are not required to be licensed as a health care facility.

An eligibility category is added to Medicare cost sharing, a mandatory Medical Assistance coverage group. The new category is federally mandated and applies to individuals who would meet existing requirements to qualify for Medicare cost sharing except for excess income.

ASSUMPTION

There will be 340 people moving from residential care facilities (RCFs) into an unlicensed setting in which the client is not eligible for state supplementary assistance (SSA).

FISCAL IMPACT

The fiscal impact to the State in FY 1993 is a savings of \$478,146. The savings to the State in FY 1994 are projected to be comparable.

Source: Department of Human Services

(LSB 5311sv, PNS)

FILED MARCH 17, 1992

BY DENNIS PROUTY, FISCAL DIRECTOR

1 Section 1. Section 135.63, subsection 2, Code Supplement
2 1991, is amended by adding the following new paragraph:

3 NEW PARAGRAPH. i. A residential program exempt from
4 licensing as a health care facility under chapter 135C in
5 accordance with section 135C.6, subsection 8.

6 Sec. 2. Section 135.64, Code Supplement 1991, is amended
7 by adding the following new subsection:

8 NEW SUBSECTION. 4. In determining whether to approve an
9 application for a certificate of need for the construction or
10 conversion of an intermediate care facility for the mentally
11 retarded, the department and the council shall only approve
12 the application if, in addition to other applicable standards,
13 the application meets the standards applied to intermediate
14 care facilities for the mentally retarded for family scale and
15 size, location, and community inclusion as provided in rules
16 adopted by the department of human services.

17 Sec. 3. Section 135C.6, Code 1991, is amended by adding
18 the following new subsection:

19 NEW SUBSECTION. 8. The following residential programs to
20 which the department of human services applies accreditation,
21 certification, or standards of review shall not be required to
22 be licensed as a health care facility under this chapter:

23 a. A residential program which provides care to not more
24 than three individuals and receives moneys appropriated to the
25 department of human services under provisions of a federally
26 approved home and community-based services waiver or other
27 medical assistance program under chapter 249A.

28 b. A residential program which serves not more than four
29 individuals and is operating under provisions of a federally
30 approved home and community-based waiver for persons with
31 mental retardation, if all individuals residing in the program
32 receive on-site staff supervision during the entire time
33 period the individuals are present in the program's living
34 unit. The need for the on-site supervision shall be reflected
35 in each individual's program plan developed pursuant to the

1 department of human services' rules relating to case
2 management for persons with mental retardation. In approving
3 a residential program under this paragraph, the department of
4 human services shall consider the geographic location of the
5 program so as to avoid an overconcentration of such programs
6 in an area.

7 Sec. 4. Section 249A.3, subsection 8, Code Supplement
8 1991, is amended to read as follows:

9 8. Medicare cost sharing shall be provided in accordance
10 with the provisions of Title XIX of the federal Social
11 Security Act, section 1902(a)(10)(E), as codified in 42 U.S.C.
12 § 1396a(a)(10)(E), to or on behalf of an individual who is a
13 resident of the state or a resident who is temporarily absent
14 from the state, and who is either a member of any of the
15 following eligibility categories:

16 a. A qualified medicare beneficiary as defined under Title
17 XIX of the federal Social Security Act, section 1905(p)(1), as
18 codified in 42 U.S.C. § 1396d(p)(1), or-a

19 b. A qualified disabled and working person as defined
20 under Title XIX of the federal Social Security Act, section
21 1905(s), as codified in 42 U.S.C. § 1396d(s).

22 c. A specified low-income medicare beneficiary as defined
23 under Title XIX of the federal Social Security Act, section
24 1902(a)(10)(E), as codified in 42 U.S.C. § 1396a(10)(E)(iii).

25 Sec. 5. HOME AND COMMUNITY-BASED WAIVER REPORT. The
26 department of human services shall monitor the implementation
27 of the federally approved home and community-based waiver
28 program for persons with mental retardation under the medical
29 assistance program. The department shall submit a report
30 concerning the waiver program to the governor and the general
31 assembly on or before February 15, 1993, which shall include
32 but is not limited to all of the following information
33 relating to the waiver program:

34 1. The number of persons served under the waiver program,
35 services received by the persons prior to receiving the waiver

1 program services, and the persons' living environments prior
2 to receiving the waiver program services.

3 2. The number of four-bed residential program applications
4 received by the department, the number approved, the number
5 denied, and the reasons for granting or denying the
6 applications.

7 3. The number of persons who meet the criteria for service
8 in a four-bed residential program who were actually served in
9 a three or fewer bed residential program.

10 4. The number of requests received by the department for
11 waiver of the seventy dollars per day reimbursement cap, the
12 number of requests granted, the number of requests denied, and
13 the reasons for granting or denying the requests. The
14 staffing needs of the individuals living in the residential
15 programs making the waiver requests and the number of the
16 requests submitted from programs with three or fewer beds.

17 5. Recommendations to the governor and the general
18 assembly concerning the reallocation of funds under the
19 waiver program based upon the actual utilization of the waiver
20 program and the advisability of increasing the waiver
21 program's seventy dollars per day reimbursement cap on
22 community living arrangements.

23 Sec. 6. EMERGENCY RULES. The department of human services
24 shall adopt administrative rules under section 17A.4,
25 subsection 2, and section 17A.5, subsection 2, paragraph "b",
26 to implement the provisions of section 3 of this Act and the
27 rules shall become effective upon filing unless a later date
28 is specified in the rules. Any rules adopted pursuant to this
29 section shall also be published as a notice of intended action
30 as provided in section 17A.4.

31 Sec. 7. IMPLEMENTATION LIMITATION -- LEGISLATIVE INTENT.
32 During the initial implementation period beginning March 1,
33 1992, and ending February 28, 1993, of the residential
34 programs which serve not more than four individuals under
35 section 135C.6, subsection 8, paragraph "b", the number of

1 beds in residential programs approved by the department of
2 human services under that provision shall be limited to a
3 total of forty beds. It is the intent of the general assembly
4 to review the report submitted by the department of human
5 services pursuant to section 5 of this Act in order to
6 determine whether any further limitation is appropriate.

7 Sec. 8. EFFECTIVE DATE. Sections 1, 3, and 6 of this Act,
8 being deemed of immediate importance, take effect upon
9 enactment.

10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35

STURGEON, CH.
SZYMONIAK 2-3-92
TINSMAN

SSB 2089
Human Resources *Ward*

SENATE/HOUSE FILE 2311
BY (PROPOSED DEPARTMENT OF HUMAN
SERVICES BILL)

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

A BILL FOR

1 An Act relating to medical assistance program requirements
2 involving health care facilities, certificates of need,
3 specified low-income federal medicare beneficiaries, and
4 program reimbursements of area education agencies.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24

1 Section 1. Section 135.63, subsection 2, Code Supplement
2 1991, is amended by adding the following new paragraph:

3 NEW PARAGRAPH. i. An institution exempt from licensing as
4 a health care facility under chapter 135C in accordance with
5 section 135C.6, subsection 8.

6 Sec. 2. Section 135.64, Code Supplement 1991, is amended
7 by adding the following new subsection:

8 NEW SUBSECTION. 4. In determining whether to approve an
9 application for a certificate of need for the construction or
10 conversion of an intermediate care facility for the mentally
11 retarded, the department and the council shall only approve
12 the application if, in addition to other applicable standards,
13 the application meets the standards applied to intermediate
14 care facilities for the mentally retarded for family scale and
15 size, location, and community inclusion as provided in rules
16 adopted by the department of human services.

17 Sec. 3. Section 135C.6, Code 1991, is amended by adding
18 the following new subsection:

19 NEW SUBSECTION. 8. An institution which provides care to
20 not more than three individuals and receives moneys
21 appropriated to the department of human services under
22 provisions of a federally approved home and community-based
23 services waiver or other medical assistance program under
24 chapter 249A, to which the department of human services
25 applies accreditation, certification, and standards of review,
26 may operate and shall not be required to be licensed as a
27 health care facility under this chapter.

28 Sec. 4. Section 249A.3, subsection 8, Code Supplement
29 1991, is amended to read as follows:

30 8. medicare cost sharing shall be provided in accordance
31 with the provisions of Title XIX of the federal Social
32 Security Act, section 1902(a)(10)(E), as codified in 42 U.S.C.
33 § 1396a(a)(10)(E), to or on behalf of an individual who is a
34 resident of the state or a resident who is temporarily absent
35 from the state, and who is either a member of any of the

1 following eligibility categories:

2 a. A qualified medicare beneficiary as defined under Title
3 XIX of the federal Social Security Act, section 1905(p)(1), as
4 codified in 42 U.S.C. § 1396d(p)(1). or-a

5 b. A qualified disabled and working person as defined
6 under Title XIX of the federal Social Security Act, section
7 1905(s), as codified in 42 U.S.C. § 1396d(s).

8 c. A specified low-income medicare beneficiary as defined
9 under Title XIX of the federal Social Security Act, section
10 1902(a)(10)(E), as codified in 42 U.S.C. § 1396a(10)(E)(iii).

11 Sec. 5. Section 281.15, subsection 7, Code Supplement
12 1991, is amended to read as follows:

13 7. Except as otherwise provided in this subsection, all
14 reimbursements received by the area education agencies for
15 eligible services shall be paid annually to the treasurer of
16 state. The area education agencies shall, after determining
17 the administrative costs associated with the implementation of
18 medical assistance reimbursement for the eligible services, be
19 permitted to retain up to twenty-five percent of the total
20 federal amount reimbursed to pay for the administrative costs.
21 Funds received under this subsection shall not be considered
22 or included as part of the area education agencies' budgets
23 when calculating funds that are to be received by area
24 education agencies during a fiscal year. Except as otherwise
25 provided in this subsection, the treasurer of state shall
26 credit all receipts received under this subsection to the
27 general fund of the state.

28 EXPLANATION

29 This bill relates to medical assistance program
30 requirements involving health care facilities, certificates of
31 need, specified low-income federal medicare beneficiaries, and
32 program reimbursements of area education agencies.

33 Sections 1 and 3 are related with section 1 providing an
34 exclusion to certificate of need requirements for institutions
35 described in section 3. Section 3 exempts certain

1 institutions from the requirement to be licensed as a health
2 care facility if the institutions are funded under the medical
3 assistance program and are authorized under a federally
4 approved waiver or other medical assistance program and meet
5 various department of human services requirements. The
6 exemption applies to all licensing categories under chapter
7 135C including residential care facility, nursing facility,
8 intermediate care facility for the mentally ill, and
9 intermediate care facility for the mentally retarded. The
10 exempt institutions cannot provide care to more than three
11 individuals.

12 Section 2 relates to determinations as to whether a
13 certificate of need is issued for construction or conversion
14 of an intermediate care facility for the mentally retarded
15 (ICFMR). In review of an application relating to an ICFMR, in
16 addition to other requirements, the health facilities council
17 and the Iowa department of public health must also consider
18 whether various department of human services standards are
19 met. The standards relate to family scale and size, location,
20 and community inclusion.

21 Section 4 relates to medicare cost sharing, which is a
22 mandatory medical assistance coverage group under chapter
23 249A. A third eligibility category for this group is
24 established and the subsection is divided to list each of the
25 three categories in a lettered paragraph. The new category is
26 required by the federal government to be part of the state's
27 medical assistance plan. It applies to individuals who would
28 meet existing requirements to qualify for medicare cost
29 sharing except for having income in excess of certain amounts.
30 Federal law establishes the income eligibility as equal to the
31 state's official poverty line in the 1992-1993 fiscal year and
32 increases the amount in 1993 and again in 1995.

33 Section 5 relates to the amount which may be retained by
34 area education agencies for administrative costs associated
35 with special education services reimbursed under the medical

2089

1 assistance program. Current law permitting retention of 25
2 percent of the amount reimbursed is amended to apply only to
3 the federal amount reimbursed.

4 BACKGROUND STATEMENT
5 SUBMITTED BY THE AGENCY

6 Sections 1 and 3 relate to licensure requirements by
7 exempting 24-hour care settings of up to three beds from
8 certificate of need (CON) and state licensure requirements if
9 these care settings are serving clients with mental
10 retardation under a federal waiver.

11 A federal home and community-based waiver authorizes
12 payment for services necessary to allow disabled recipients to
13 live in their own homes or in a small group setting instead of
14 an institutional setting. The department has developed
15 standards and will do necessary monitoring to assure that
16 recipients receiving waiver services and living in group
17 settings of no more than three recipients are receiving
18 appropriate care and services. Since these group settings
19 will be neighborhood residential housing and care and services
20 will be monitored by the department, CON review and state
21 licensure are unnecessary.

22 Section 2 also relates to CON. A statute enacted in the
23 1991 Session directed the department to develop rules limiting
24 future development of intermediate care facility for the
25 mentally retarded (ICFMR) beds under the medical assistance
26 program to those facilities meeting family size/scale/location
27 criteria and further directed that the health facilities
28 council would give consideration to these rules when reviewing
29 ICFMR CON applications. It is necessary for this direction to
30 the council to be contained in a codified statute. No
31 significant added administrative cost is anticipated.
32 Counties are concerned that if the authority is not
33 established in Code it would be possible for an ICFMR to be
34 approved and licensed and yet be ineligible for medical
35 assistance payments, thus leaving the county with 100 percent

1 financial responsibility for ICFMR resident costs.

2 Section 4 is necessary to add to the Code a new mandatory
3 coverage group, the specified low-income medicare
4 beneficiaries (SLMB). The federal Omnibus Budget
5 Reconciliation Act (OBRA) of 1990, section 4501(b), mandates
6 that effective January 1, 1993, the medical assistance program
7 must pay the costs of medicare part B premiums of specified
8 low-income medicare beneficiaries. By not picking up this
9 coverage group, the state would be out of compliance with the
10 federal law and could face possible sanctions. This Code
11 revision would reflect this mandatory group. State costs for
12 the 1992-1993 fiscal year are estimated at \$21,854.
13 Additional staff are not projected to be needed for this
14 change.

15 Section 5 relates to law enacted in 1990 providing the area
16 education agencies (AEAs) could retain up to 25 percent of the
17 total amount reimbursed under the medical assistance program
18 for special education. However, legislative intent was later
19 clarified that 25 percent of the federal amount is the
20 appropriate wording. Currently AEA's are being reimbursed 25
21 percent of the federal amount. This proposal would bring Code
22 language and current practice into conformity.

23
24
25
26
27
28
29
30
31
32
33
34
35

SENATE FILE 2311

AN ACT

RELATING TO MEDICAL ASSISTANCE PROGRAM REQUIREMENTS INVOLVING HEALTH CARE FACILITIES, CERTIFICATES OF NEED, AND SPECIFIED LOW-INCOME FEDERAL MEDICARE BENEFICIARIES, AND PROVIDING AN EFFECTIVE DATE.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 135.63, subsection 2, Code Supplement 1991, is amended by adding the following new paragraph:

NEW PARAGRAPH. 1. A residential program exempt from licensing as a health care facility under chapter 135C in accordance with section 135C.6, subsection 8.

Sec. 2. Section 135.64, Code Supplement 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 4. In determining whether to approve an application for a certificate of need for the construction or conversion of an intermediate care facility for the mentally retarded, the department and the council shall only approve the application if, in addition to other applicable standards, the application meets the standards applied to intermediate care facilities for the mentally retarded for family scale and size, location, and community inclusion as provided in rules adopted by the department of human services.

Sec. 3. Section 135C.6, Code 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 8. The following residential programs to which the department of human services applies accreditation, certification, or standards of review shall not be required to be licensed as a health care facility under this chapter:

a. A residential program which provides care to not more than three individuals and receives moneys appropriated to the department of human services under provisions of a federally approved home and community-based services waiver or other medical assistance program under chapter 249A.

b. A residential program which serves not more than four individuals and is operating under provisions of a federally approved home and community-based waiver for persons with mental retardation, if all individuals residing in the program receive on-site staff supervision during the entire time period the individuals are present in the program's living unit. The need for the on-site supervision shall be reflected in each individual's program plan developed pursuant to the department of human services' rules relating to case management for persons with mental retardation. In approving a residential program under this paragraph, the department of human services shall consider the geographic location of the program so as to avoid an overconcentration of such programs in an area.

Sec. 4. Section 249A.3, subsection 8, Code Supplement 1991, is amended to read as follows:

8. Medicare cost sharing shall be provided in accordance with the provisions of Title XIX of the federal Social Security Act, section 1902(a)(10)(E), as codified in 42 U.S.C. § 1396a(a)(10)(E), 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 member of any of the following eligibility categories:

a. 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

b. 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).

c. A specified low-income medicare beneficiary as defined under Title XIX of the federal Social Security Act, section 1902(a)(10)(E), as codified in 42 U.S.C. § 1396a(10)(E)(iii).

Sec. 5. HOME AND COMMUNITY-BASED WAIVER REPORT. The department of human services shall monitor the implementation of the federally approved home and community-based waiver program for persons with mental retardation under the medical assistance program. The department shall submit a report concerning the waiver program to the governor and the general assembly on or before February 15, 1993, which shall include but is not limited to all of the following information relating to the waiver program:

1. The number of persons served under the waiver program, services received by the persons prior to receiving the waiver program services, and the persons' living environments prior to receiving the waiver program services.

2. The number of four-bed residential program applications received by the department, the number approved, the number denied, and the reasons for granting or denying the applications.

3. The number of persons who meet the criteria for service in a four-bed residential program who were actually served in a three or fewer bed residential program.

4. The number of requests received by the department for waiver of the seventy dollars per day reimbursement cap, the number of requests granted, the number of requests denied, and the reasons for granting or denying the requests. The staffing needs of the individuals living in the residential programs making the waiver requests and the number of the requests submitted from programs with three or fewer beds.

5. Recommendations to the governor and the general assembly concerning the reallocation of funding under the waiver program based upon the actual utilization of the waiver program and the advisability of increasing the waiver program's seventy dollars per day reimbursement cap on community living arrangements.

Sec. 6. EMERGENCY RULES. The department of human services shall adopt administrative rules under section 17A.4, subsection 2, and section 17A.5, subsection 2, paragraph "b", to implement the provisions of section 3 of this Act and the rules shall become effective upon filing unless a later date is specified in the rules. Any rules adopted pursuant to this section shall also be published as a notice of intended action as provided in section 17A.4.

Sec. 7. IMPLEMENTATION LIMITATION -- LEGISLATIVE INTENT. During the initial implementation period beginning March 1, 1992, and ending February 28, 1993, of the residential programs which serve not more than four individuals under section 135C.6, subsection 8, paragraph "b", the number of beds in residential programs approved by the department of human services under that provision shall be limited to a total of forty beds. It is the intent of the general assembly to review the report submitted by the department of human services pursuant to section 5 of this Act in order to determine whether any further limitation is appropriate.

Sec. 8. EFFECTIVE DATE. Sections 1, 3, and 6 of this Act, being deemed of immediate importance, take effect upon enactment.

MICHAEL E. GRONSTAL
President of the Senate

ROBERT C. ARNOULD
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 2311, Seventy-fourth General Assembly.

JOHN F. DWYER
Secretary of the Senate

Approved April 9, 1992

TERRY E. BRANSTAD
Governor

SF 2311