

CHAPTER 283**CHILDREN'S PROGRAMS AND RELATED PROCEDURES***S.F. 540*

AN ACT relating to human services statutes providing for or regarding substance abuse commitment of juveniles, psychiatric medical institutions for children, the council on human services, mentally ill juveniles, child abuse, payment for a child's expenses, the schedule of basic needs under the aid to dependent children program, the costs of a child's care in a state juvenile institution, child support recovery, and certain administrative rules, properly related matters, providing for effective dates, and providing penalties.

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

Section 1. NEW SECTION. 125.75A INVOLUNTARY COMMITMENT OR TREATMENT OF MINORS — JURISDICTION.

The juvenile court has exclusive original jurisdiction in proceedings concerning a minor for whom an application for involuntary commitment or treatment is filed under section 125.75. In proceedings under this division concerning a minor's involuntary commitment or treatment, the terms "court", "judge", "referee", or "clerk" mean the juvenile court, judge, referee, or clerk.

Sec. 2. NEW SECTION. 135H.1 DEFINITIONS.

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

1. "Department" means the department of inspections and appeals.
2. "Direction" means authoritative policy or procedural guidance for the accomplishment of a function or an activity.
3. "Licensee" means the holder of a license issued to operate a psychiatric medical institution for children.
4. "Medical care plan" means a plan of care and services designed to eliminate the need for inpatient care by improving the condition of a child. Services must be based upon a diagnostic evaluation, which includes an examination of the medical, psychological, social, behavioral, and developmental aspects of the child's situation, reflecting the need for inpatient care.
5. "Nonsecure institution" means a physically unrestricting institution, place, building, or agency in which a child may be placed pursuant to a dispositional court order made in accordance with the provisions of chapter 232.
6. "Nursing care" means services which are provided under the direction of a physician or registered nurse.
7. "Physician" means a person licensed under chapter 148 or 150A.
8. "Psychiatric medical institution for children" or "psychiatric institution" means a nonsecure institution providing more than twenty-four hours of continuous care involving long-term psychiatric services to three or more children in residence for expected periods of fourteen or more days for diagnosis and evaluation or for expected periods of ninety days or more for treatment.
9. "Psychiatric services" means services provided under the direction of a physician which address mental, emotional, medical, or behavioral problems.
10. "Mental health professional" means an individual who has all of the following qualifications:
 - a. The individual holds at least a master's degree in a mental health field, including but not limited to, psychology, counseling and guidance, nursing, and social work, or the individual is a physician.
 - b. The individual holds a current Iowa license if practicing in a field covered by an Iowa licensure law.
 - c. The individual has at least two years of post-degree clinical experience, supervised by another mental health professional, in assessing mental health needs and problems and in providing appropriate mental health services.

11. "Rehabilitative services" means services to encourage and assist restoration of a resident's optimum mental and physical capabilities.

12. "Resident" means a person who is less than twenty-one years of age and has been admitted by a physician to a psychiatric medical institution for children.

13. "Supervision" means direct oversight and inspection of the act of accomplishing a function or activity.

Sec. 3. NEW SECTION. 135H.2 PURPOSE.

The purpose of this chapter is to provide for the development, establishment, and enforcement of basic standards for the operation, construction, and maintenance of a psychiatric medical institution for children which will ensure the safe and adequate diagnosis and evaluation and treatment of the residents.

Sec. 4. NEW SECTION. 135H.3 NATURE OF CARE.

A psychiatric medical institution for children shall utilize a team of professionals to direct an organized program of diagnostic services, psychiatric services, nursing care, and rehabilitative services to meet the needs of residents in accordance with a medical care plan developed for each resident. Social and rehabilitative services shall be provided under the direction of a qualified mental health professional.

Sec. 5. NEW SECTION. 135H.4 LICENSURE.

A person shall not establish, operate, or maintain a psychiatric medical institution for children unless the person obtains a license for the institution under this chapter and holds a license under section 237.3, subsection 2, paragraph "a", subparagraph (3).

Sec. 6. NEW SECTION. 135H.5 APPLICATION FOR LICENSE.

An application for a license under this chapter shall be submitted on a form requesting information required by the department, which may include affirmative evidence of the applicant's ability to comply with the rules for standards adopted pursuant to this chapter. An application for a license shall be accompanied by the required license fee which shall be credited to the general fund of the state. The initial and annual license fee is twenty-five dollars.

Sec. 7. NEW SECTION. 135H.6 INSPECTION BEFORE ISSUANCE.

The department shall issue a license to an applicant under this chapter if all the following conditions exist:

1. The department has ascertained that the applicant's medical facilities and staff are adequate to provide the care and services required of a psychiatric institution.

2. The proposed psychiatric institution is accredited to provide psychiatric services by the joint commission on the accreditation of health care organizations under the commission's consolidated standards for residential settings.

3. The applicant complies with applicable state rules and standards for a psychiatric institution adopted by the department in accordance with federal requirements under 42 C.F.R. § 441.150-441.156.

4. The applicant has been awarded a certificate of need pursuant to chapter 135.

5. The department of human services has submitted written approval of the application based on the department of human services' determination of need. The department of human services shall identify the location and number of children in the state who require the services of a psychiatric medical institution for children. Approval of an application shall be based upon the location of the proposed psychiatric institution relative to the need for services identified by the department of human services and an analysis of the applicant's ability to provide services and support consistent with requirements under chapter 232, particularly regarding community-based treatment. The department of human services shall not give approval to an application which would cause the total number of beds licensed under this chapter to exceed three hundred sixty beds with not more than three hundred of the beds licensed under chapter 237 before January 1, 1989, and not more than sixty of the beds licensed under chapter 237 after January 1, 1989. If the proposed psychiatric institution is not freestanding from a

facility licensed under chapter 135B or 135C, approval under this subsection shall not be given unless the department of human services certifies that the proposed psychiatric institution is capable of providing a resident with a living environment similar to the living environment provided by a licensee which is freestanding from a facility licensed under chapter 135B or 135C. Unless a psychiatric institution was accredited to provide psychiatric services by the joint commission on the accreditation of health care organizations under the commission's consolidated standards for residential settings prior to the effective date of this Act, the department of human services shall not approve an application for a license under this chapter until the federal health care financing administration has approved a state Title XIX plan amendment to include coverage of services in a psychiatric medical institution for children.

6. The proposed psychiatric institution is under the direction of an agency which has operated a facility licensed under section 237.3, subsection 2, paragraph "a", subparagraph (3), for three years.

Sec. 8. NEW SECTION. 135H.7 PERSONNEL.

1. A person shall not be allowed to provide services in a psychiatric institution if the person has a disease which is transmissible to other persons through required contact in the workplace, which presents a significant risk of infecting other persons, which presents a substantial possibility of harming other persons, or for which no reasonable accommodation can eliminate the risk of infecting other persons.

2. A person who has been convicted of a criminal act involving a child under a law of any state or who has a record of founded child abuse shall not be licensed, be employed by a licensee, or reside in a licensed home unless the department of human services determines that the crime or founded abuse does not merit prohibition of licensure or employment. In its determination, the department of human services shall consider the nature and seriousness of the crime or founded abuse in relation to the position sought, the time elapsed since the commission of the crime or founded abuse, the circumstances under which the crime or founded abuse was committed, the degree of rehabilitation, and the number of crimes or founded abuses committed by the person involved.

Sec. 9. NEW SECTION. 135H.8 DENIAL, SUSPENSION, OR REVOCATION OF LICENSE.

The department may deny an application or suspend or revoke a license if the department finds that an applicant or licensee has failed or is unable to comply with this chapter or the rules establishing minimum standards pursuant to this chapter or if any of the following conditions apply:

1. It is shown that a resident is a victim of cruelty or neglect due to the acts or omissions of the licensee.

2. The licensee has permitted, aided, or abetted in the commission of an illegal act in the psychiatric institution.

3. An applicant or licensee acted to obtain or to retain a license by fraudulent means, misrepresentation, or submitting false information.

4. The licensee has willfully failed or neglected to maintain a continuing in-service education and training program for persons employed by the psychiatric institution.

5. The application involves a person who has failed to operate a psychiatric institution in compliance with the provisions of this chapter.

Sec. 10. NEW SECTION. 135H.9 NOTICE AND HEARINGS.

The procedure governing notice and hearing to deny an application or suspend or revoke a license shall be in accordance with rules adopted by the department pursuant to chapter 17A. A full and complete record shall be kept of the proceedings and of any testimony. The record need not be transcribed unless judicial review is sought. A copy or copies of a transcript may be obtained by an interested party upon payment of the cost of preparing the transcript or copies.

Sec. 11. NEW SECTION. 135H.10 RULES.

1. The department of inspections and appeals, in consultation with the department of human services and affected professional groups, shall adopt and enforce rules setting out the standards for a psychiatric medical institution for children and the rights of the residents admitted to a psychiatric institution. The department of inspections and appeals and the department of human services shall coordinate the adoption of rules and the enforcement of the rules in order to prevent duplication of effort by the departments and of requirements of the licensee.

2. This chapter shall not be construed as prohibiting the use of funds appropriated for foster care to provide payment to a psychiatric medical institution for children for the financial participation required of a child whose foster care placement is in a psychiatric medical institution for children. In accordance with established policies and procedures for foster care, the department of human services shall act to recover any such payment for financial participation, apply to be named payee for the child's unearned income, and recommend parental liability for the costs of a court-ordered foster care placement in a psychiatric medical institution.

Sec. 12. NEW SECTION. 135H.11 COMPLAINTS ALLEGING VIOLATIONS — CONFIDENTIALITY.

A person may request an inspection of a psychiatric medical institution for children by filing with the department a complaint of an alleged violation of an applicable requirement of this chapter or a rule adopted pursuant to this chapter. The complaint shall state in a reasonably specific manner the basis of the complaint. A statement of the nature of the complaint shall be delivered to the psychiatric institution involved at the time of or prior to the inspection. The name of the person who files a complaint with the department shall be kept confidential and shall not be subject to discovery, subpoena, or other means of legal compulsion for its release to a person other than department employees involved in the investigation of the complaint.

Sec. 13. NEW SECTION. 135H.12 INSPECTIONS UPON COMPLAINTS.

1. Upon receipt of a complaint made in accordance with section 135H.11, the department shall make a preliminary review of the complaint. Unless the department concludes that the complaint is intended to harass a psychiatric institution or a licensee or is without reasonable basis, it shall within twenty working days of receipt of the complaint make or cause to be made an on-site inspection of the psychiatric institution which is the subject of the complaint. The department of inspections and appeals may refer to the department of human services any complaint received by the department if the complaint applies to rules adopted by the department of human services. The complainant shall also be notified of the name, address, and telephone number of the designated protection and advocacy agency if the alleged violation involves a facility with one or more residents with developmental disabilities or mental illness. In any case, the complainant shall be promptly informed of the result of any action taken by the department in the matter.

2. An inspection made pursuant to a complaint filed under section 135H.11 need not be limited to the matter or matters referred to in the complaint; however, the inspection shall not be a general inspection unless the complaint inspection coincides with a scheduled general inspection. Upon arrival at the psychiatric institution to be inspected, the inspector shall show identification to the person in charge of the psychiatric institution and state that an inspection is to be made, before beginning the inspection. Upon request of either the complainant or the department, the complainant or the complainant's representative or both may be allowed the privilege of accompanying the inspector during any on-site inspection made pursuant to this section. The inspector may cancel the privilege at any time if the inspector determines that the privacy of a resident of the psychiatric institution to be inspected would be violated. The dignity of the resident shall be given first priority by the inspector and others.

Sec. 14. NEW SECTION. 135H.13 INFORMATION CONFIDENTIAL.

1. The department's final findings and the survey findings of the joint commission on the accreditation of health care organizations regarding licensure or program accreditation shall

be made available to the public in a readily available form and place. Other information relating to the psychiatric institution is confidential and shall not be made available to the public except in proceedings involving licensure, a civil suit involving a resident, or an administrative action involving a resident.

2. The name of a person who files a complaint with the department shall remain confidential and is not subject to discovery, subpoena, or any other means of legal compulsion for release to a person other than an employee of the department or an agent involved in the investigation of the complaint.

3. Information regarding a resident who has received or is receiving care shall not be disclosed directly or indirectly except as authorized under section 217.30, 232.69, or 237.21.

Sec. 15. NEW SECTION. 135H.14 JUDICIAL REVIEW.

Judicial review of the action of the department may be sought pursuant to the Iowa Administrative Procedure Act, chapter 17A. Notwithstanding the Iowa Administrative Procedure Act, a petition for judicial review of the department's actions under this chapter may be filed in the district court of the county in which the related psychiatric medical institution for children is located or is proposed to be located. The status of the petitioner or the licensee shall be preserved pending final disposition of the judicial review.

Sec. 16. NEW SECTION. 135H.15 PENALTIES.

A person who establishes, operates, or manages a psychiatric medical institution for children without obtaining a license under this chapter commits a serious misdemeanor. Each day of continuing violation following conviction shall be considered a separate offense.

Sec. 17. NEW SECTION. 135H.16 INJUNCTION.

Notwithstanding the existence or pursuit of another remedy, the department may maintain an action for injunction or other process to restrain or prevent the establishment, operation, or management of a psychiatric medical institution for children without a license.

Sec. 18. Section 217.3, subsection 4, Code 1989, is amended to read as follows:

4. Approve the budget of the department of human services prior to submission to the governor. Within two weeks of the date the budget is approved, the council shall publicize and hold a public hearing to provide explanations and hear questions, opinions, and suggestions regarding the budget. Invitations to the hearing shall be extended to the governor, the governor-elect, the director of the department of management, and other persons deemed by the council as integral to the budget process.

Sec. 19. Section 217.11, Code 1989, is amended by adding the following new subsection: NEW SUBSECTION. 10. The director of the department of education or the director's designee.

Sec. 20. Section 225C.20, Code 1989, is amended to read as follows:

225C.20 RESPONSIBILITIES OF COUNTIES FOR INDIVIDUAL CASE MANAGEMENT SERVICES.

Individual case management services shall be provided by the department except when a county or a consortium of counties contracts with the department to provide the services. A county or consortium of counties may contract to be the provider at any time and the department shall agree to the contract so long as the contract meets the standards for case management adopted by the department. The county or consortium of counties may subcontract for the provision of case management services so long as the subcontract meets the same standards. A mental health, mental retardation, and developmental disabilities coordinating board ~~which intends to~~ may change the provider of individual case management services at any time. If the current or proposed contract is with the department, the coordinating board shall provide written notification of a proposed change to the department on or before August 15 and written notification of an approved change on or before October 15 in the fiscal year which precedes the fiscal year in which the change will take effect.

Sec. 21. NEW SECTION. 226.9A CUSTODY OF JUVENILE PATIENTS.

Effective January 1, 1991, a juvenile who is committed to a state mental health institute shall not be placed in a secure ward with adults.

Sec. 22. Section 232.71, Code 1989, is amended by adding the following new subsection:
NEW SUBSECTION. 17. In each county or multicounty area in which more than fifty child abuse reports are made per year, the department shall establish a multidisciplinary team, as defined in section 235A.13, subsection 9. Upon the department's request, a multidisciplinary team shall assist the department in the assessment, diagnosis, and disposition of a child abuse report.

Sec. 23. Section 232.141, Code 1989, is amended by striking the section and inserting in lieu thereof the following:

232.141 EXPENSES.

1. Except as otherwise provided by law, the court shall inquire into the ability of the child or the child's parent to pay expenses incurred pursuant to subsection 2 and subsection 4 and, after giving the parent a reasonable opportunity to be heard, the court may order the parent to pay all or part of the costs of the child's care, examination, treatment, legal expenses, or other expenses. An order entered under this section does not obligate a parent paying child support under a custody decree, except that part of the monthly support payment may be used to satisfy the obligations imposed by the order entered pursuant to this section. If a parent fails to pay as ordered, without good reason, the court may proceed against the parent for contempt and may inform the county attorney who shall proceed against the parent to collect the unpaid amount. Any payment ordered by the court shall be a judgment against each of the child's parents and a lien as provided in section 624.23. If all or part of the amount that the parents are ordered to pay is subsequently paid by the county or state, the judgment and lien shall thereafter be against each of the parents in favor of the county to the extent of the county's payments and in favor of the state to the extent of the state's payments.

2. Upon certification of the court, all of the following expenses are a charge upon the county in which the proceedings are held, to the extent provided in subsection 3:

a. The fees and mileage of witnesses and the expenses of officers serving notices and subpoenas.

b. Reasonable compensation for an attorney appointed by the court to serve as counsel or guardian ad litem.

3. Costs incurred under subsection 2 shall be paid as follows:

a. A county shall be required to pay for the fiscal year beginning July 1, 1989, an amount equal to the county's base cost for witness and mileage fees and attorney fees established pursuant to section 232.141, subsection 8, paragraph "d", Code 1989, for the fiscal year beginning July 1, 1988, plus an amount equal to the percentage rate of change in the consumer price index as tabulated by the federal bureau of labor statistics for the current year times the county's base cost.

b. A county's base cost for a fiscal year plus the percentage rate of change amount as computed in paragraph "a" is the county's base cost for the succeeding fiscal year. The amount to be paid in the succeeding year by the county shall be computed as provided in paragraph "a".

c. Costs incurred under subsection 2 which are not paid by the county under paragraphs "a" and "b" shall be reimbursed by the state. A county shall apply for reimbursement to the judicial department which shall prescribe rules and forms to implement this subsection.

4. Upon certification of the court, all of the following expenses are a charge upon the state to the extent provided in subsection 5:

a. The expenses of transporting a child to or from a place designated by the court for the purpose of care or treatment.

b. Expenses for mental or physical examinations of a child if ordered by the court.

c. The expenses of care or treatment ordered by the court.

5. If no other provision of law requires the county to reimburse costs incurred pursuant to subsection 4, the department shall reimburse the costs as follows:

a. The department shall prescribe by administrative rule all services eligible for reimbursement pursuant to subsection 4 and shall establish an allowable rate of reimbursement for each service.

b. The department shall receive billings for services provided and, after determining allowable costs, shall reimburse providers at a rate which is not greater than allowed by administrative rule. Reimbursement paid to a provider by the department shall be considered reimbursement in full unless a county voluntarily agrees to pay any difference between the reimbursement amount and the actual cost. When there are specific program regulations prohibiting supplementation those regulations shall be applied to providers requesting supplemental payments from a county. Billings for services not listed in administrative rule shall not be paid. However, if the court orders a service not currently listed in administrative rule, the department shall review the order and, if reimbursement for the service of the department is not in conflict with other law or administrative rule, and meets the criteria of subsection 4, the department shall reimburse the provider.

6. If a child is given physical or mental examinations or treatment relating to a child abuse investigation with the consent of the child's parent, guardian, or legal custodian and no other provision of law otherwise requires payment for the costs of the examination and treatment, the costs shall be paid by the state. Reimbursement for costs of services described in this subsection is subject to subsection 5.

7. A county charged with the costs and expenses under subsections 2 and 3 may recover the costs and expenses from the county where the child has legal settlement by filing verified claims which are payable as are other claims against the county. A detailed statement of the facts upon which a claim is based shall accompany the claim. Any dispute involving the legal settlement of a child for which the court has ordered payment under this section shall be settled pursuant to sections 252.22 and 252.23.

Sec. 24. Section 232.89, subsection 3, Code 1989, is amended to read as follows:

3. The court shall determine, after giving the parent, guardian, or custodian an opportunity to be heard, whether ~~such~~ the person has the ability to pay in whole or in part for counsel appointed for the child. If the court determines that ~~such~~ the person possesses sufficient financial ability, the court shall then consult with the department of human services, the juvenile probation office, or other authorized agency or individual regarding the likelihood of impairment of the relationship between the child and the child's parent, guardian or custodian as a result of ordering the parent, guardian, or custodian to pay for the child's counsel. If impairment is deemed unlikely, the court shall order that person to pay ~~such sums~~ as an amount the court finds appropriate in the manner and to whom the court directs. If the person ~~so ordered~~ fails to comply with the order without good reason, the court shall enter judgment against the person. If impairment is deemed likely or if the court determines that the parent, guardian, or custodian cannot pay any part of the expenses of counsel appointed to represent the child, counsel shall be reimbursed pursuant to section 232.141, subsection ~~1~~ 2, paragraph "b".

Sec. 25. Section 235A.15, subsection 2, paragraph c, Code 1989, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (5) To an administrator of a psychiatric medical institution for children licensed under chapter 135H.

Sec. 26. Section 237.3, subsection 2, paragraph a, Code 1989, is amended by striking the paragraph and inserting in lieu thereof the following:

- a. Types of facilities which include but are not limited to all of the following:
- (1) A community residential facility.
 - (2) A community residential facility for mentally retarded children.
 - (3) A comprehensive residential facility for children.
 - (4) A comprehensive residential facility for mentally retarded children.

- (5) A foster family home.
- (6) A group living foster care facility.

Sec. 27. Section 237.8, subsection 1, Code 1989, is amended by striking the subsection and inserting in lieu thereof the following:

1. A person shall not be allowed to provide services in a facility if the person has a disease which is transmissible to other persons through required contact in the workplace, which presents a significant risk of infecting other persons, which presents a substantial possibility of harming other persons, or for which no reasonable accommodation can eliminate the risk of infecting other persons.

Sec. 28. Section 237A.15, Code 1989, is amended by adding the following new subsection:
NEW SUBSECTION. 4. Adopt rules relating to the purchase of child day care services which authorize payment for up to four days per month for days an individual child is not in attendance at the child day care facility.

Sec. 29. NEW SECTION. 242.17 COST OF CARE.

If a child receives unearned income, the department shall reserve a portion of the unearned income for the use of the child as a personal allowance and apply the remaining portion to the cost of the child's custody, care, and maintenance provided pursuant to this chapter.

Sec. 30. NEW SECTION. 244.16 COST OF CARE.

If a child receives unearned income, the department shall reserve a portion of the unearned income for the use of the child as a personal allowance and apply the remaining portion equally to the state and county liability for the cost of the child's support and maintenance provided pursuant to this chapter.

Sec. 31. Section 252B.9, Code 1989, is amended to read as follows:

252B.9 AVAILABILITY OF RECORDS.

The director may request from state, county and local agencies, information and assistance deemed necessary to carry out the provisions of this chapter. State, county and local agencies, officers and employees shall co-operate with the unit in locating absent parents of children on whose behalf public assistance is being provided and shall on request supply the department with available information relative to the location, income and property holdings of the absent parent, notwithstanding any provisions of law making such information confidential.

Information recorded by the department pursuant to this section shall be available only to the unit, attorneys prosecuting a case in which the unit may participate according to sections 252B.5 and 252B.6, courts having jurisdiction in support or abandonment proceedings, and agencies in other states charged with support collection and paternity determination responsibilities, and a resident parent, legal guardian, attorney, or agent of a child who is not receiving assistance under Title IV-A of the federal Social Security Act as determined by the rules of the department and the provisions of Title IV of the United States Social Security Act.

Sec. 32. Section 692.2, subsection 1, Code 1989, is amended by adding the following new paragraph:

NEW PARAGRAPH. g. A psychiatric medical institution for children licensed under chapter 135H for the purposes of section 237.8, subsection 2 and section 600.8, subsections 1 and 2.

Sec. 33. 1988 Iowa Acts, chapter 1249, section 21, is amended to read as follows:

SEC. 21. Beginning July 1, 1988, the department of inspections and appeals shall issue provisional licenses to specialized psychiatric ~~hospitals~~ medical institutions for children and adolescents for those ~~facilities~~ institutions which are providing residential nonsecure inpatient psychiatric services to children and adolescents, which are accredited by the joint commission on the accreditation of health care organizations under the commission's consolidated standards for residential settings, which are in compliance with all applicable state rules and standards regarding the operation of comprehensive residential ~~facilities~~ institutions for children,

and which have been awarded a certificate of need. Each applicant shall submit a copy of the applicant's accreditation, and a copy of the certificate of need, and a statement of approval from the state fire marshal to the department of inspections and appeals. Notwithstanding the provisions of section 237.1, subsection 3, paragraph "e", care furnished by these facilities institutions shall continue to be considered foster care.

The department of inspections and appeals, with the approval of the state board of health, shall adopt permanent standards for the licensure, of specialized psychiatric hospitals medical institutions for children and adolescents under chapter 135B. The rules shall take effect immediately upon filing, no later than July 1, 1989. Effective September 1, 1989, the maximum reimbursement rate for a psychiatric medical institution for children shall be the group foster care reimbursement rate unless the federal health care financing administration approves a state Title XIX plan amendment to include coverage of services in a psychiatric medical institution for children. A psychiatric medical institution for children licensed before May 1, 1989, shall be reimbursed at the rate established under the medical assistance program until September 1, 1989. A psychiatric medical institution for children licensed on or after May 1, 1989, may bill the department of human services for actual audited costs up to one hundred twenty dollars per day, but shall be initially reimbursed at the group foster care rate. If the state Title XIX plan amendment is approved, the department of human services shall reimburse a licensed psychiatric medical institution for children at the rate established under the medical assistance program retroactively to the effective date of the plan amendment or the date the psychiatric institution was enrolled in the medical assistance program, whichever is later.

The department of human services shall adopt rules to expand coverage under the medical assistance program to include services provided by specialized psychiatric hospitals medical institutions for children and adolescents which are licensed by the department of inspections and appeals. The rules shall take effect no later than July 1, 1988, contingent upon the facilities meeting institution certifying that the facility is in accordance with the federal requirements for a hospital as outlined in 42 C.F.R., subpart D § 441.150-441.156. Initially, the rules shall provide that the medical assistance reimbursement rate for the specialized hospitals psychiatric medical institutions for children shall be one hundred twenty dollars per day or the actual audited costs, whichever are is less. The department shall develop adopt a permanent reimbursement methodology for the specialized hospitals to be effective on or before psychiatric medical institutions for children in rules which are effective immediately upon filing no later than July 1, 1989.

The health facilities council shall expedite the process by ruling on a certificate of need application under pursuant to this section within seventy-five days of the application and shall give primary consideration in this expedited process to those issues related to meeting the conditions set out in this section, provided that either of the following conditions apply:

a. The hospital psychiatric medical institution for children was accredited by the joint commission on the accreditation of health care organizations prior to the effective date of this Act and has been providing psychiatric treatment services for adolescents and children as a licensed foster care facility prior to the effective date of this Act and the provisional license will not increase the capacity of the facility.

b. The hospital had sought accreditation by the joint commission on the accreditation of health care organizations prior to January 1, 1988, and has been providing psychiatric treatment services for adolescents and children as a licensed foster care facility prior to the effective date of this Act and the provisional license will not increase the capacity of the facility psychiatric medical facility for children is accredited by the joint commission on the accreditation of health care organizations, complies with any applicable state rule or standard regarding the operation of a comprehensive institution for children licensed under section 237.3, subsection 2, paragraph "a", subparagraph (1) or (3), has been awarded a certificate of need, and has received the department's written approval.

Sec. 34. EMERGENCY RULES.

1. The department of inspection and appeals shall adopt rules to implement the requirements of this Act and the rules shall be filed without notice and shall be effective immediately upon filing. The rules must be published as notice of intended action as provided in section 17A.4. The rules shall include and be in accordance with the provisions of regulations and rules provided under each of the following sources:

a. Regulations pursuant to 42 C.F.R., § 441.150-441.156.

b. Rules for community residential facilities or comprehensive residential facilities for children licensed pursuant to section 237.3, subsection 2, paragraph "a", subparagraph (1) or (3).

2. The department of human services, in consultation with the department of inspections and appeals and affected professional groups, shall adopt rules to expand medical assistance coverage under chapter 249A to include eligibility for and services provided by licensed psychiatric medical institutions for children and the rules shall be filed without notice and shall be effective immediately upon filing. The rules must be published as notice of intended action as provided in section 17A.4. The rules shall provide that the initial reimbursement rate paid to a psychiatric medical institution for children under the medical assistance program shall be one hundred twenty dollars per day or the actual audited costs, whichever is less. The initial reimbursement rate is subject to modification pursuant to laws appropriating funding which affect the rate. The department of human services shall develop a permanent reimbursement methodology which shall be effective on or before July 1, 1989.

Sec. 35. INITIAL LICENSURE. A specialized psychiatric hospital for children which is offering services at the time rules under this Act are adopted shall receive a provisional license to operate as a psychiatric medical institution for children. A recipient of a provisional license under this section must comply with the rules and standards within one year of receiving the provisional license in order to obtain a permanent license under chapter 135H.

Sec. 36. NEEDS ASSESSMENT REQUIRED. Pursuant to section 135H.6, subsection 5, the department of human services shall conduct a needs assessment to determine the location and number of children in the state who require the services of a psychiatric medical institution for children. The department shall report the results of the needs assessment with recommendations as to whether the limit on the number of psychiatric medical institution for children beds in the state should be modified. A report on the needs assessment and recommendations shall be submitted to the general assembly on or before January 1, 1990.

Sec. 37. ADOLESCENT RECIPIENTS OF AID TO DEPENDENT CHILDREN – INFORMATION. The department of human services shall identify the number of adolescent recipients under the aid to dependent children program who have not completed high school or have not received a high school equivalency diploma under chapter 259A by county and by high school attendance area. The department shall cooperate with the department of education in studying the impact upon high schools of adolescent recipients returning to school, the high school needs for additional or alternative programming, and needs for infant and child care within or near the high schools. The department shall report its findings to the general assembly by January 1, 1990, and the report shall include recommendations regarding measures necessary to improve the success of adolescent recipients under the aid to dependent children program in completing high school or obtaining a high school equivalency diploma.

Sec. 38. EFFECTIVE DATE. Sections 2 through 17, 25 through 27, and 32 through 36 of this Act, being deemed of immediate importance, take effect upon enactment.

Approved June 1, 1989