

2. The section of this Act amending section 714.16, subsection 2, paragraph n, being deemed of immediate importance, takes effect upon enactment and applies retroactively to July 1, 2000.

3. The section of this Act amending 2000 Iowa Acts, chapter 1228, section 37, being deemed of immediate importance, takes effect upon enactment and applies retroactively to May 17, 2000.

Approved April 22, 2002

CHAPTER 1120

MENTAL HEALTH AND DEVELOPMENTAL DISABILITY SERVICES

H.F. 2416

AN ACT relating to mental health and developmental disability services requirements and providing an effective date.

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

DIVISION I WAIVER SERVICES

Section 1. Section 135C.6, subsection 8, Code 2001, is amended to read as follows:

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~~ Residential programs providing care to not more than four individuals and ~~receives~~ receiving moneys appropriated to the department of human services under provisions of a federally approved home and community-based services waiver for persons with mental retardation or other medical assistance program under chapter 249A ~~shall not be required to be licensed as a health care facility under this chapter.~~ In approving a residential program under this ~~paragraph~~ subsection, 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. In order to be approved under this ~~paragraph~~ subsection, a residential program shall not be required to involve the conversion of a licensed residential care facility for persons with mental retardation.

b. ~~A total of forty residential care facilities for persons with mental retardation which are licensed to serve no more than five individuals may be authorized by the department of human services to convert to operation as a residential program under the provisions of a medical assistance home and community-based services waiver for persons with mental retardation. A converted residential program is subject to the conditions stated in paragraph "a" except that the program shall not serve more than five individuals. The department of human services shall allocate conversion authorizations to provide for eight conversions in each of the department's five service regions.~~

Sec. 2. Section 249A.20, Code 2001, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. A provider reimbursed under section 249A.31 is not a noninstitutional health provider.

Sec. 3. Section 249A.26, Code Supplement 2001, is amended by adding the following new subsection:

NEW SUBSECTION. 4. The county of legal settlement shall pay for one hundred percent of the nonfederal share of the cost of services provided to persons with chronic mental illness implemented under the adult rehabilitation option of the state medical assistance plan. The state shall pay for one hundred percent of the nonfederal share of the cost of such services provided to such persons without a county of legal settlement.

Sec. 4. Section 249A.29, subsection 1, unnumbered paragraph 1, Code 2001, is amended to read as follows:

For purposes of this section and section 249A.30 unless the context otherwise requires:

Sec. 5. **NEW SECTION.** 249A.30 HOME AND COMMUNITY-BASED WAIVER SERVICES REIMBURSEMENT.

1. The base reimbursement rate for a provider of services under a medical assistance program home and community-based waiver for persons with mental retardation shall be recalculated at least every three years to adjust for the changes in costs during the immediately preceding three-year period.

2. The annual inflation factor used to adjust such a provider's reimbursement rate for a fiscal year shall not exceed the percentage increase in the employment cost index for private industry compensation issued by the federal department of labor, bureau of labor statistics, for the most recently completed calendar year.

Sec. 6. **NEW SECTION.** 249A.31 COST-BASED REIMBURSEMENT — MENTAL HEALTH AND DEVELOPMENTAL DISABILITIES PROVIDERS.

All of the following shall receive cost-based reimbursement for one hundred percent of the reasonable costs for the provision of services to recipients of medical assistance:

1. Providers of individual case management services for persons with mental retardation, a developmental disability, or chronic mental illness in accordance with standards adopted by the mental health and developmental disabilities commission pursuant to section 225C.6.

2. Providers of services to persons with chronic mental illness implemented under the adult rehabilitation option of the state medical assistance plan.

Sec. 7. **RULES.**

1. The department of human services and the mental health and developmental disabilities commission shall adopt new rules or amend or repeal existing rules so that services provided to a person with a developmental disability under provisions of a federally approved medical assistance home and community-based services waiver for persons with mental retardation, supported community living services, and any other funding or program providing support to persons with a developmental disability allows for residential programs to serve at least four individuals or the number of individuals authorized by an exception to policy approved by the department. The rules to be amended or repealed shall include but are not limited to all of the following:

a. Supported community living services under 441 IAC 78.41(1)(c). In addition, the restrictions in 441 IAC 78.41(1)(d), providing that no more than eight consumers shall reside in settings with a maximum of four living units and requiring that in larger settings the majority of living units must be occupied by individuals who do not have a disability, shall be eliminated.

b. Supported community living services providers under 441 IAC 77.37(14)(e), relating to restrictions on the number of supported community living recipients that may be provided for in a living unit.

2. The department of human services and the mental health and developmental disabilities commission shall adopt new rules or amend or repeal existing rules so that services provided under provisions of a federally approved medical assistance home and community-based services waiver for persons with mental retardation allow children who are sixteen years of age

or older to utilize supported community living services for community vocational training and support. In developing the rules, the department and commission shall consult with the department of education, division of vocational rehabilitation services and area education agencies to determine the best approach or approaches to meet the needs of such children for community vocational training and support throughout the school year and summer while maintaining coverage of the training and support under the medical assistance program. The rules shall take effect on or before September 30, 2002.

Sec. 8. IMPLEMENTATION OF ACT. Section 25B.2, subsection 3, shall not apply to sections 249A.29 and 249A.30 as amended or enacted by this division of this Act.

Sec. 9. EFFECTIVE DATE. The provisions of this division of this Act amending and enacting sections 249A.20, 249A.26, and 249A.31, being deemed of immediate importance, take effect upon enactment.

DIVISION II
INTERMEDIATE CARE FACILITIES
FOR PERSONS WITH MENTAL RETARDATION

Sec. 10. Section 135.63, subsection 4, Code 2001, is amended to read as follows:

4. ~~For the period beginning July 1, 1995, and ending June 30, 1998, the A copy of the application shall be sent to the department of human services at the time the application is submitted to the Iowa department of public health. The department shall not process applications for and the council shall not consider a new or changed institutional health service for an intermediate care facility for persons with mental retardation except as provided in this subsection. unless both of the following conditions are met:~~

a. ~~For the period beginning July 1, 1995, and ending June 30, 1998, the department and council shall process applications and consider applications if either of the following conditions are met:~~

(1) ~~An institutional health facility is reducing the size of the facility's intermediate care facility for the persons with mental retardation program and wishes to convert an existing number of the facility's approved beds in that program to smaller living environments in accordance with state policies in effect regarding the size and location of such facilities.~~

(2) ~~An institutional health facility proposes to locate a new intermediate care facility for persons with mental retardation in an area of the state identified by the department of human services as underserved by intermediate care facility beds for persons with mental retardation.~~

b. ~~Both of the following requirements shall apply to an application considered under this section:~~

(1) ~~a. The new or changed beds shall not result in an increase in the total number of medical assistance certified intermediate care facility beds for persons with mental retardation in the state as of July 1, 1994, exclusive of those beds at the state resource centers or other state institutions, beyond one thousand six hundred thirty-six beds.~~

(2) ~~b. A letter of support for the application is provided by the director of human services and the county board of supervisors, or the board's designee, in the county in which the beds would be located.~~

Sec. 11. Section 135.64, subsection 4, Code 2001, is amended by striking the subsection.

Sec. 12. ICFMR CERTIFICATE OF NEED — FY 2002-2003 IMPLEMENTATION. For the fiscal year beginning July 1, 2002, and ending June 30, 2003, the health facilities council shall not approve applications for new or changed institutional health service resulting in more than ten new or changed beds for the intermediate care facility for persons with mental retardation classification.

DIVISION III
COMMUNITY MENTAL HEALTH CENTERS

Sec. 13. MEDICAL ASSISTANCE PROVIDER REQUIREMENTS. Effective July 1, 2002, the department of human services shall revise the medical assistance provider requirements applicable to community mental health centers in the department's policy manuals to implement all of the following:

1. Revision of the condition of payment provision relating to services provided by a mental health professional and requiring an initial evaluation to include at least one personal interview with a psychiatrist. Under the revision, a mental health professional, as defined in section 228.1, must conduct a patient's initial evaluation interview and if the evaluation results indicate a need for a referral for an interview with a psychiatrist, then such a referral shall be required.

2. Elimination of requirements for holding a patient staffing meeting within four weeks following the date of the patient's initial evaluation interview and for subsequently holding patient staffing meetings every four months. Instead, the purpose of these requirements shall be achieved through the peer review process in effect for community mental health centers.

3. Make conforming amendments to policy manuals as necessary to implement subsections 1 and 2.

DIVISION IV
EMERGENCY RULES

Sec. 14. EMERGENCY RULES. Rules adopted, amended, or repealed pursuant to this Act shall be processed as emergency rules under section 17A.4, subsection 2, and section 17A.5, subsection 2, paragraph "b", and the rules shall be effective immediately upon filing, unless the effective date is delayed by the administrative rules review committee, notwithstanding section 17A.4, subsection 5, and section 17A.8, subsection 9, or a later date is specified in the rules. Any rules adopted, amended, or repealed pursuant to this Act shall not take effect before the rules are reviewed by the administrative rules review committee. Any rules adopted, amended, or repealed pursuant to this Act shall also be published as a notice of intended action as provided in section 17A.4.

Approved April 22, 2002

CHAPTER 1121

TIRE AND WASTE TIRE INITIATIVES —
MANAGEMENT, REGULATION, AND USE OF FUNDS

H.F. 2554

AN ACT relating to the use of moneys appropriated to the department of natural resources for purposes of tire-related initiatives, disposal fees charged by retail tire dealers, and the registration of waste tire haulers and providing an effective date.

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

Section 1. Section 321.52A, subsection 2, Code Supplement 2001, is amended to read as follows:

2. ~~For the fiscal year beginning July 1, 1996, the treasurer of state shall deposit one million~~