

trative rules under section 17A.4, subsection 2, and section 17A.5, subsection 2, paragraph “b”, to implement the provisions of this Act, and the rules shall become effective immediately upon filing or on a later effective date specified in the rules, unless the effective date is delayed by the administrative rules review committee. Any rules adopted in accordance with this section shall not take effect before the rules are reviewed by the administrative rules review committee. The delay authority provided to the administrative rules review committee under section 17A.4, subsection 5, and section 17A.8, subsection 9, shall be applicable to a delay imposed under this section, notwithstanding a provision in those sections making them inapplicable to section 17A.5, subsection 2, paragraph “b”. Any rules adopted in accordance with the provisions of this section shall also be published as notice of intended action as provided in section 17A.4.

Approved May 23, 2006

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## CHAPTER 1115

### MENTAL HEALTH AND DISABILITY SERVICES

*H.F. 2780*

**AN ACT** relating to persons with mental illness, mental retardation, developmental disabilities, or brain injury by addressing purposes and quality standards for services and other support available for such persons, establishing basic financial eligibility standards, addressing state and county financial responsibility for the cost of the services and other support, changing the name of a departmental division, providing for an increase in the reimbursement of certain service providers, and providing effective and applicability dates.

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

#### DIVISION I

#### PURPOSES AND QUALITY STANDARDS

Section 1. Section 125.82, subsection 3, Code 2005, as amended by 2006 Iowa Acts, Senate File 2362,<sup>1</sup> section 1, if enacted, and 2006 Iowa Acts, Senate File 2217,<sup>2</sup> section 30, if enacted, is amended to read as follows:

3. The person who filed the application and a licensed physician, ~~or qualified mental health professional as defined in section 229.1~~ 228.1, or certified alcohol and drug counselor certified by the nongovernmental Iowa board of substance abuse certification who has examined the respondent in connection with the commitment hearing shall be present at the hearing, unless 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 licensed physician, ~~or qualified mental health professional, or certified alcohol and drug counselor~~ who examined the respondent and agree to submit as evidence the written report of the licensed physician, ~~or qualified mental health professional, or certified alcohol and drug counselor~~. The respondent’s attorney shall inform the court if the respondent’s attorney reasonably believes that the respondent, due to diminished capacity, cannot make an adequately considered waiver decision. “Good cause” for finding that the testimony of the licensed physician, ~~or qualified mental health professional, or certified alcohol and drug counselor~~ who ex-

<sup>1</sup> Chapter 1116 herein

<sup>2</sup> Chapter 1159 herein

amined the respondent is not necessary may include, but is not limited to, such a waiver. If the court determines that the testimony of the licensed physician, ~~or qualified mental health professional, or certified alcohol and drug counselor~~ is necessary, the court may allow the licensed physician, ~~or qualified mental health professional, or certified alcohol and drug counselor~~ 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.

Sec. 2. Section 225C.1, Code 2005, is amended to read as follows:

225C.1 FINDINGS AND PURPOSE.

1. The general assembly finds that services to persons with mental illness, mental retardation, developmental disabilities, or brain injury are provided in many parts of the state by highly autonomous community-based service providers working cooperatively with state and county officials. However, the general assembly recognizes that heavy reliance on property tax funding for mental health and mental retardation services has ~~restricted uniform availability of this care~~ enabled many counties to exceed minimum state standards for the services resulting in an uneven level of services around the state. Consequently, greater efforts should be made to assure close coordination and continuity of care for those persons receiving publicly supported disability services in Iowa. It is the purpose of this chapter to continue and to strengthen the services to persons with disabilities now available in the state of Iowa, to make ~~these disability~~ disability services conveniently available to all persons in this state upon a reasonably uniform financial basis, and to assure the continued high quality of these services.

2. It is the intent of the general assembly that the service system for persons with disabilities emphasize the ability of persons with disabilities to exercise their own choices about the amounts and types of services received; that all levels of the service system seek to empower persons with disabilities to accept responsibility, exercise choices, and take risks; ~~that disability services are individualized, provided to produce results, flexible, and cost-effective;~~ and that disability services be provided in a manner which supports the ability of persons with disabilities to live, learn, work, and recreate in ~~natural~~ communities of their choice.

Sec. 3. Section 225C.2, subsection 6, Code 2005, is amended to read as follows:

6. "Disability services" means services ~~or and~~ other assistance support available to a person with mental illness, mental retardation or other developmental disability, or brain injury.

Sec. 4. Section 225C.4, subsection 1, paragraph d, Code 2005, is amended to read as follows:

d. Encourage and facilitate coordination of disability services with the objective of developing and maintaining in the state a disability service delivery system to provide disability services to all persons in this state who need the services, regardless of the place of residence or economic circumstances of those persons. The administrator shall work with the commission and other state agencies, including but not limited to the departments of corrections, education, and public health and the state board of regents to develop and implement a strategic plan to expand access to qualified mental health workers across the state.

Sec. 5. Section 225C.4, subsection 1, paragraph j, Code 2005, is amended to read as follows:

j. Establish and maintain a data collection and management information system oriented to the needs of patients, providers, the department, and other programs or facilities. The administrator shall annually submit to the commission information collected by the department indicating the changes and trends in the disability services system.

Sec. 6. Section 225C.6, subsection 1, paragraph n, Code 2005, is amended to read as follows:

n. Identify ~~basic disability services for planning purposes~~ disability services outcomes and indicators to support the ability of eligible persons with a disability to live, learn, work, and recreate in communities of the persons' choice. The identification duty includes but is not limited to responsibility for identifying, collecting, and analyzing data as necessary to issue reports on outcomes and indicators at the county and state levels.

Sec. 7. Section 225C.27, Code 2005, is amended to read as follows:  
225C.27 PURPOSE.

Sections 225C.25 through 225C.28B shall be liberally construed and applied to promote their purposes and the stated rights and service quality standards. The commission, in coordination with appropriate agencies, shall adopt rules to implement the purposes of section 225C.28B, subsections 3 and 4, which include, but are not limited to, the following:

1. Promotion of the human dignity and protection of the constitutional and statutory rights of persons with mental retardation, developmental disabilities, brain injury, or chronic mental illness in the state.

2. Encouraging the development of the ability and potential of each person with mental retardation, developmental disabilities, brain injury, or chronic mental illness in the state to the fullest extent possible.

3. Encouraging activities to ensure that recipients of services shall not be deprived of any rights, benefits, or privileges guaranteed by law, the Constitution of the State of Iowa, or the Constitution of the United States solely on account of the receipt of the services.

4. Promoting access by each person in the state with mental retardation, developmental disabilities, brain injury, or chronic mental illness to effective services and other support and treatment essential for living, working, and participating fully in the community.

Sec. 8. Section 225C.28A, Code 2005, is amended to read as follows:  
225C.28A SERVICE QUALITY STANDARDS.

As the state participates more fully in funding services and other support to persons with mental retardation, developmental disabilities, brain injury, or chronic mental illness, it is the intent of the general assembly that the state shall seek to attain the following quality standards in the provision of the services:

1. Provide comprehensive evaluation and diagnosis adapted to the cultural background, primary language, and ethnic origin of the person.

2. Provide an individual treatment, habilitation, and program plan.

3. Provide individualized treatment, habilitation, and program services that are individualized, provided to produce results, flexible, and cost-effective, as appropriate.

4. Provide periodic review of the individual plan.

5. Provide for the least restrictive environment and age-appropriate services.

6. Provide appropriate training and employment opportunities so that the person's ability to contribute to and participate in the community is maximized.

7. Provide an ongoing process to determine the degree of access to and the effectiveness of the services and other support in achieving the disability services outcomes and indicators identified by the commission pursuant to section 225C.6.

Sec. 9. Section 331.439, subsection 1, paragraph b, subparagraphs (2) and (3), Code Supplement 2005, are amended to read as follows:

(2) For informational purposes, the county shall submit a management plan review to the department of human services by ~~April~~ December 1 of each year. The annual review shall incorporate an analysis of the data associated with the services managed during the preceding fiscal year by the county or by a managed care entity on behalf of the county. The annual review shall also identify measurable outcomes and results showing the county's progress in fulfilling the purposes listed in paragraph "bb", and in achieving the disability services outcomes and indicators identified by the commission pursuant to section 225C.6.

(3) For informational purposes, every three years the county shall submit to the department of human services a three-year strategic plan. The strategic plan shall describe how the county will proceed to attain the plan's goals and objectives contained in the strategic plan for the duration of the plan, and the measurable outcomes and results necessary for moving the county's service system toward an individualized, community-based focus in accordance with paragraph "bb". The three-year strategic plan shall be submitted by April 1, 2000, and by April 1 of every third year thereafter.

Sec. 10. Section 331.439, subsection 1, Code Supplement 2005, is amended by adding the following new paragraphs:

NEW PARAGRAPH. bb. The county implements its county management plan under paragraph "b" and other service management functions in a manner that seeks to achieve all of the following purposes identified in section 225C.1 for persons who are covered by the plan or are otherwise subject to the county's service management functions:

(1) The service system seeks to empower persons to exercise their own choices about the amounts and types of services and other support received.

(2) The service system seeks to empower the persons to accept responsibility, exercise choices, and take risks.

(3) The service system seeks to provide services and other support that are individualized, provided to produce results, flexible, and cost-effective.

(4) The service system seeks to provide services and other supports in a manner which supports the ability of the persons to live, learn, work, and recreate in communities of their choice.

NEW PARAGRAPH. bbb. Commencing with the fiscal year beginning July 1, 2007, the county management plan under paragraph "bb" shall do both of the following:

(1) Describe how the county will provide services and other support that are individualized, provided to produce results, flexible, and cost-effective in accordance with paragraph "bb", subparagraph (3).

(2) Describe how the ability of the individuals covered by the plan to live, learn, work, and recreate in communities of the individuals' choice will be enhanced as provided in paragraph "bb", subparagraph (4).

Sec. 11. Section 426B.5, Code Supplement 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 3. INCENTIVE POOL.

a. An incentive pool is created in the property tax relief fund. The incentive pool shall consist of the moneys credited to the incentive pool by law.

b. Moneys available in the incentive pool for a fiscal year shall be distributed to those counties that either meet or show progress toward meeting the purposes described in section 331.439, subsection 1, paragraph "bb". The moneys received by a county from the incentive pool shall be used to build community capacity to support individuals covered by the county's management plan approved under section 331.439, in meeting such purposes.

Sec. 12. APPLICABILITY DATE. The section of this division of this Act amending section 426B.5 is first applicable for allowed growth funding distributed in the fiscal year beginning July 1, 2008.

## DIVISION II FINANCIAL ELIGIBILITY

Sec. 13. Section 225C.6, subsection 1, paragraph m, Code 2005, is amended to read as follows:

m. Identify ~~model basic financial eligibility guidelines standards~~ for disability services. The standards shall include but are not limited to the following:

(1) A financial eligibility standard providing that a person with an income equal to or less than one hundred fifty percent of the federal poverty level, as defined by the most recently re-

vised poverty income guidelines published by the United States department of health and human services, is eligible for disability services paid with public funding. However, a county may apply a copayment requirement for a particular disability service to a person with an income equal to or less than one hundred fifty percent of the federal poverty level, provided the disability service and the copayment amount both comply with rules adopted by the commission applying uniform standards with respect to copayment requirements. A person with an income above one hundred fifty percent of the federal poverty level may be eligible subject to a copayment or other cost-sharing arrangement subject to limitations adopted in rule by the commission.

(2) A requirement that a person who is eligible for federally funded services and other support must apply for the services and support.

(3) Resource limitations that are derived from the federal supplemental security income program limitations. A person with resources above the federal supplemental security income program limitations may be eligible subject to limitations adopted in rule by the commission. If a person does not qualify for federally funded services and other support but meets income, resource, and functional eligibility requirements, the following types of resources shall be disregarded:

(a) A retirement account that is in the accumulation stage.

(b) A burial, medical savings, or assistive technology account.

Sec. 14. ALLOWED GROWTH FUNDING STUDY. A study committee shall be established by the legislative council for the 2006 legislative interim to review the formulas used for distribution of state mental health, mental retardation, and developmental disabilities services allowed growth factor funding to counties and other public funding for the services. The purposes of the review include but are not limited to examining the public sources of the funding and programming for the services and to determine whether the formulas are effective in distributing funds to counties in a manner that best serves Iowans with disabilities while enabling the state and counties to budget effectively for providing the services. The study committee shall hear testimony and provide an opportunity for discussion with counties, advocates for persons with disabilities, and other interested parties. The membership of the study committee shall include at least six members of the senate and five members of the house of representatives. In addition, the membership shall include four ex officio, nonvoting members with two representing the Iowa state association of counties, one representing the department of human services, and one representing the mental health, mental retardation, developmental disabilities, and brain injury commission. It is the intent of the general assembly that the study committee submit a report with findings and recommendations to the governor, the general assembly, and the commission on or before January 1, 2007.

DIVISION III  
CENTRAL POINT OF COORDINATION PROCESS — COUNTY OF RESIDENCE  
RESPONSIBILITIES AND STATE CASES

Sec. 15. Section 249A.12, subsection 8, as enacted by 2006 Iowa Acts, House File 2492,<sup>3</sup> section 1, is amended by striking the subsection and inserting in lieu thereof the following:

8. If a person with mental retardation has no legal settlement or the legal settlement is unknown so that the person is deemed to be a state case and services associated with the mental retardation can be covered under a medical assistance home and community-based waiver or other medical assistance program provision, the nonfederal share of the medical assistance program costs for such coverage shall be paid from the appropriation made for the medical assistance program.

Sec. 16. Section 331.440, Code 2005, is amended by adding the following new subsection:  
NEW SUBSECTION. 1A. For the purposes of this section, unless the context otherwise requires:

<sup>3</sup> Chapter 1066 herein

a. "Adult person" means a person who is age eighteen or older and is a United States citizen or a qualified alien as defined in 8 U.S.C. § 1641.

b. "County of residence" means the county in this state in which, at the time an adult person applies for or receives services, the adult person is living and has established an ongoing presence with the declared, good faith intention of living for a permanent or indefinite period of time. The county of residence of an adult person who is a homeless person is the county where the homeless person usually sleeps.

c. "Homeless person" means the same as defined in section 48A.2.

d. "State case services and other support" means the mental health, mental retardation, and developmental disabilities services and other support paid for under the rules and requirements in effect prior to October 1, 2006, from the annual appropriation made to the department of human services for such services and other support provided to persons who have no established county of legal settlement or the legal settlement is unknown so that the person is deemed to be a state case. Such services and other support do not include medical assistance program services or services provided in a state institution.

Sec. 17. Section 331.440, subsection 3, Code 2005, is amended to read as follows:

3. An application for services may be made through the central point of coordination process of a an adult person's county of residence. ~~However, if a~~ Effective July 1, 2007, if an adult person who is subject to a central point of coordination process has legal settlement in another county, ~~or the costs of services or other support provided to the person are the financial responsibility of the state, an authorization through the central point of coordination process shall be coordinated with the person's county of legal settlement or with the state, as applicable. The county of residence and county of legal settlement of a person subject to a central point of coordination process may mutually agree that the central point of coordination process functions shall be performed by the central point of coordination process of the person's county of legal settlement residence in accordance with the county of residence's management plan approved under section 331.439 and the person's county of legal settlement is responsible for the cost of the services or other support authorized at the rates reimbursed by the county of residence. At the time services or other support are authorized, the county of residence shall send the county of legal settlement a copy of the authorization notice.~~

Sec. 18. Section 331.440, Code 2005, is amended by adding the following new subsection:  
**NEW SUBSECTION.** 3A. Effective October 1, 2006, if an adult person has no established county of legal settlement or the legal settlement is unknown so that the person is deemed to be a state case, the person's eligibility and the authorization for state case services and other support shall be determined by the adult person's county of residence in accordance with that county's management plan approved under section 331.439. The costs of the state case services and other support provided for the person shall be the responsibility of the person's county of legal residence. The funding appropriated to the department of human services for purposes of the state case services and other support shall be distributed as provided in the appropriation to the counties of residence responsible for the costs.

Sec. 19. EFFECTIVE DATE — COST PROJECTIONS — LEGISLATIVE INTENT.

1. a. The section of this division of this Act that amends section 331.440, subsection 3, takes effect July 1, 2007.

b. This section, being deemed of immediate importance, takes effect upon enactment, and the department shall begin implementation upon enactment.

2. a. The department of human services and counties, in consultation with the legislative services agency, shall develop a methodology for distributing the funding appropriated for the fiscal year beginning July 1, 2006, for state case services and other support, as defined in this division of this Act, to counties for county residents who receive state case services and other support, on and after October 1, 2006. The methodology shall be based upon historical usage, projected usage, and significant increases anticipated in county costs. The department and

counties shall share with one another names and necessary information concerning the individuals who have been identified by the department or counties. The methodology shall provide for quarterly distributions.

b. The base funding amount used for the distribution methodology to counties shall be 75 percent of the amount appropriated for state case services and other support plus any reversions from the previous fiscal year's appropriation, the amount transferred from block grant funding, and any other source designated by law. The base funding amount may be adjusted for relevant purposes that may include but are not limited to an adjustment to reflect the expenditure savings realized from renegotiation of the contract with the contractor providing managed care for mental health services made pursuant to this division of this Act.

c. Prior to September 1, 2006, the department shall meet with each county to analyze the actual numbers of individuals who are eligible for state case services and other support and who as county residents will be the financial and management responsibility of the county effective October 1, 2006, the historical costs of state case services and other support provided to such individuals by the department, the projected increase in cost of providing state case services and other support to such individuals in accordance with the county management plan, and the projected cost to provide state case services and other support at county reimbursement rates in lieu of the capped reimbursement rates paid by the state. The purpose of the analysis is for the department, in consultation with each county, to determine by September 1, 2006, an amount needed for the county to fund state case services and other support for county residents for the period beginning October 1, 2006, and ending June 30, 2007. If a county disputes the department's determination of the amount needed by the county, the county may appeal the determination to the director of human services. The county shall file the appeal within 30 days of the issuance date of the determination. The director's decision shall be considered to be a final agency decision and may be appealed as provided in chapter 17A. While an appeal is pending, the department shall provide funding to the county for state cases in the amount determined by the department, subject to later adjustment based upon the outcome of the appeal.

d. If the aggregate of the amounts determined for each county, as provided in paragraph "c", exceeds the base funding amount determined under paragraph "b", notwithstanding section 331.440, subsection 3A, as enacted by this division of this Act, the department of human services shall retain responsibility for the costs of state case services and other support for persons deemed to be a state case through June 30, 2007. The department shall report to the governor and general assembly on or before December 1, 2006, recommendations to address the funding shortfall.

e. If the aggregate of the amounts determined for each county, as provided in paragraph "c", is less than the base funding amount determined under paragraph "b", the amounts determined shall be distributed to the counties and the excess amount shall be reserved for distribution as provided in paragraph "f".

f. (1) If a county becomes responsible for a new individual state case whose costs were not included in the amounts determined under paragraph "c", the county shall supply the individual's application and service and other support needs to the department for an eligibility determination and identification of funding availability. If the county disputes the department's determination, the appeal provisions under paragraph "c" shall apply.

(2) If an existing state case has a change in condition that results in significant additional costs that cannot be offset by savings from other state cases or other means, the county may apply to the department for relief to address the additional costs. Relief payments approved by the department shall be paid from the excess amount reserved under paragraph "e" and are limited to that amount. In addition, if a county has such additional costs and either did not apply for relief or the application was denied in whole or in part because at the time of the application the excess amount reserved under paragraph "e" was projected to be insufficient, the county may apply for any funds from any excess amount available under paragraph "e" that would otherwise remain unexpended or unobligated at the close of the fiscal year. Otherwise,

the state liability for the cost of the state case services and other support authorized by a county of residence is limited to the amount distributed to the county.

g. The state's liability for state case services and other support for the fiscal year beginning July 1, 2006, is limited to the amount appropriated.

h. The provisions of this subsection shall be adopted in rule as necessary to implement the provisions. The mental health, mental retardation, developmental disabilities, and brain injury commission may adopt administrative rules under section 17A.4, subsection 2, and section 17A.5, subsection 2, paragraph "b", to implement the provisions and the rules shall become effective immediately upon filing or on a later effective date specified in the rules, unless the effective date is delayed by the administrative rules review committee. Any rules adopted in accordance with this subsection shall not take effect before the rules are reviewed by the administrative rules review committee. The delay authority provided to the administrative rules review committee under section 17A.4, subsection 5, and section 17A.8, subsection 9, shall be applicable to a delay imposed under this subsection, notwithstanding a provision in those sections making them inapplicable to section 17A.5, subsection 2, paragraph "b". Any rules adopted in accordance with the provisions of this subsection shall also be published as notice of intended action as provided in section 17A.4.

3. Each county that would need to amend the county's management plan for services approved under section 331.439 in order to implement the provisions of this division of this Act amending section 331.440, subsection 3, to take effect on July 1, 2007, shall develop and submit projections of the costs to the county to implement the provisions. The projections shall identify costs in the initial and succeeding fiscal years. The projections shall be submitted on December 1, 2006, along with the county's expenditure report submitted pursuant to section 331.439, subsection 1, paragraph "a". The projections, along with any findings and recommendations identified by the county, shall be submitted at the same time to the department of human services, the mental health, mental retardation, developmental disabilities, and brain injury commission, and the general assembly.

4. The department of human services shall renegotiate the department's contract with the contractor providing managed care for mental health services under the medical assistance program so that any responsibility for the contractor to manage state case services and other support, as defined by this division of this Act, will end on or before September 30, 2006. The expenditure savings realized from making this change shall remain with the state case appropriation for distribution to counties of residence.

5. The department of human services and counties shall work with the department's consultant to develop a proposal for a case rate system that may be used in subsequent fiscal years for distributing funding to counties for the state case services and other support provided to county residents. The case rate system proposal developed is subject to approval by the mental health, mental retardation, developmental disabilities, and brain injury commission, shall be submitted to the governor and general assembly in January 2007, and shall not be implemented unless a statute specifically authorizing implementation of the system is enacted.

#### DIVISION IV DIVISION NAME CHANGE

Sec. 20. Section 135C.25, subsection 1, Code 2005, is amended to read as follows:

1. Each health care facility shall have a resident advocate committee whose members shall be appointed by the director of the department of elder affairs or the director's designee. A person shall not be appointed a member of a resident advocate committee for a health care facility unless the person is a resident of the service area where the facility is located. The resident advocate committee for any facility caring primarily for persons with mental illness, mental retardation, or a developmental disability shall only be appointed after consultation with the administrator of the division of mental health and ~~developmental disabilities~~ disability services of the department of human services on the proposed appointments. Recommendations to the director or the director's designee for membership on resident advocate committees are



encouraged from any agency, organization, or individual. The administrator of the facility shall not be appointed to the resident advocate committee and shall not be present at committee meetings except upon request of the committee.

Sec. 21. Section 217.6, unnumbered paragraph 2, Code 2005, is amended to read as follows:

The department of human services may be initially divided into the following divisions of responsibility: the division of child and family services, the division of mental health and ~~developmental disabilities~~ disability services, the division of administration, and the division of planning, research and statistics.

Sec. 22. Section 217.10, Code 2005, is amended to read as follows:

217.10 ADMINISTRATOR OF DIVISION OF MENTAL HEALTH AND ~~DEVELOPMENTAL DISABILITIES~~ DISABILITY SERVICES.

The administrator of the division of mental health and ~~developmental disabilities~~ disability services shall be qualified as provided in section 225C.3, subsection 3. The administrator's duties are enumerated in section 225C.4.

Sec. 23. Section 221.2, Code 2005, is amended to read as follows:

221.2 ADMINISTRATOR.

Pursuant to the compact, the administrator of the division of mental health and ~~developmental disabilities~~ disability services of the department of human services shall be the compact administrator. The compact administrator may cooperate with all departments, agencies, and officers of this state and its subdivisions in facilitating the proper administration of the compact and of any supplementary agreement entered into by this state under the compact.

Sec. 24. Section 225C.2, subsections 1 and 7, Code 2005, are amended to read as follows:

1. "Administrator" means the administrator of the division of mental health and ~~developmental disabilities~~ of the department of human services.

7. "Division" means the division of mental health and ~~developmental disabilities~~ disability services of the department of human services.

Sec. 25. Section 225C.13, subsection 2, Code Supplement 2005, is amended to read as follows:

2. The division administrator of the division of mental health and ~~developmental disabilities~~ may work with the appropriate administrator of the department's institutions to establish mental health and mental retardation services for all institutions under the control of the director of human services and to establish an autism unit, following mutual planning and consultation with the medical director of the state psychiatric hospital, at an institution or a facility administered by the department to provide psychiatric and related services and other specific programs to meet the needs of autistic persons, and to furnish appropriate diagnostic evaluation services.

Sec. 26. Section 230A.1, Code 2005, is amended to read as follows:

230A.1 ESTABLISHMENT AND SUPPORT OF COMMUNITY MENTAL HEALTH CENTERS.

A county or affiliated counties, by action of the board or boards of supervisors, with approval of the administrator of the division of mental health and ~~developmental disabilities~~ disability services of the department of human services, may establish a community mental health center under this chapter to serve the county or counties. This section does not limit the authority of the board or boards of supervisors of any county or group of counties to continue to expend money to support operation of the center, and to form agreements with the board of supervisors of any additional county for that county to join in supporting and receiving services from or through the center.

Sec. 27. Section 230A.13, unnumbered paragraph 2, Code 2005, is amended to read as follows:

Release of administrative and diagnostic information, as defined in section 228.1, ~~subsections 1 and 3~~, and demographic information necessary for aggregated reporting to meet the data requirements established by the department of human services, division of mental health and ~~developmental disabilities~~ disability services, relating to an individual who receives services from a community mental health center through the applicable central point of coordination process, may be made a condition of support of that center by any county under this section.

Sec. 28. Section 230A.16, unnumbered paragraph 1, Code 2005, is amended to read as follows:

The administrator of the division of mental health and ~~developmental disabilities~~ disability services of the department of human services shall recommend and the mental health, mental retardation, developmental disabilities, and brain injury commission shall adopt standards for community mental health centers and comprehensive community mental health programs, with the overall objective of ensuring that each center and each affiliate providing services under contract with a center furnishes high quality mental health services within a framework of accountability to the community it serves. The standards shall be in substantial conformity with those of the psychiatric committee of the joint commission on accreditation of health care organizations and other recognized national standards for evaluation of psychiatric facilities unless in the judgment of the administrator of the division of mental health and ~~developmental disabilities~~ disability services, with approval of the mental health, mental retardation, developmental disabilities, and brain injury commission, there are sound reasons for departing from the standards. When recommending standards under this section, the administrator of the division shall designate an advisory committee representing boards of directors and professional staff of community mental health centers to assist in the formulation or revision of standards. At least a simple majority of the members of the advisory committee shall be lay representatives of community mental health center boards of directors. At least one member of the advisory committee shall be a member of a county board of supervisors. The standards recommended under this section shall include requirements that each community mental health center established or operating as authorized by section 230A.1 shall:

Sec. 29. Section 230A.16, subsection 3, Code 2005, is amended to read as follows:

3. Arrange for the financial condition and transactions of the community mental health center to be audited once each year by the auditor of state. However, in lieu of an audit by state accountants, the local governing body of a community mental health center organized under this chapter may contract with or employ certified public accountants to conduct the audit, pursuant to the applicable terms and conditions prescribed by sections 11.6 and 11.19 and audit format prescribed by the auditor of state. Copies of each audit shall be furnished by the accountant to the administrator of the division of mental health and ~~developmental disabilities~~, disability services and the board of supervisors supporting the audited community mental health center.

Sec. 30. Section 230A.17, Code 2005, is amended to read as follows:

230A.17 REVIEW AND EVALUATION.

The administrator of the division of mental health and ~~developmental disabilities~~ disability services of the department of human services may review and evaluate any community mental health center upon the recommendation of the mental health, mental retardation, developmental disabilities, and brain injury commission, and shall do so upon the written request of the center's board of directors, its chief medical or administrative officer, or the board of supervisors of any county from which the center receives public funds. The cost of the review shall be paid by the division.

Sec. 31. Section 262.70, Code 2005, is amended to read as follows:

262.70 EDUCATION, PREVENTION, AND RESEARCH PROGRAMS IN MENTAL HEALTH AND MENTAL RETARDATION DISABILITY SERVICES.

The division of mental health and ~~developmental disabilities~~ disability services of the department of human services may contract with the board of regents or any institution under the board's jurisdiction to establish and maintain programs of education, prevention, and research in the fields of mental health, ~~and mental retardation, developmental disabilities, and brain injury~~. The board may delegate responsibility for these programs to the state psychiatric hospital, the university hospital, or any other appropriate entity under the board's jurisdiction.

Sec. 32. Section 331.440A, subsection 7, paragraph a, subparagraph (3), Code 2005, is amended to read as follows:

(3) One individual designated by the division of medical services of the department of human services and one individual designated by the division of mental health and ~~developmental disabilities~~ disability services of the department of human services.

Sec. 33. Section 331.756, subsection 45, Code Supplement 2005, is amended to read as follows:

45. Appear on behalf of the administrator of the division of mental health and ~~developmental disabilities~~ disability services of the department of human services in support of an application to transfer a person with mental illness who becomes incorrigible and dangerous from a state hospital for persons with mental illness to the Iowa medical and classification center as provided in section 226.30.

Sec. 34. CODE EDITOR — NAME CHANGE DIRECTIVE. The Code editor shall revise the headnote to section 225C.3 to reflect the change in the name of the division of mental health and developmental disabilities to the division of mental health and disability services made pursuant to this division of this Act.

Sec. 35. REQUIREMENT TO REESTABLISH DIVISION. The general assembly finds that the scope and importance of the department of human services' duties under law involving mental health, mental retardation, developmental disabilities, and brain injury services justifies assigning those duties to a separate division in place of the current practice in which the duties are assigned to a division serving many disparate populations. Therefore, during the fiscal year beginning July 1, 2006, contingent upon the appropriation of funding for this purpose, the director of human services shall reestablish a separate division, to be known as the division of mental health and disability services, and shall appropriately assign to that division the department's duties under law involving such services.

#### DIVISION V REIMBURSEMENT PROVISIONS

Sec. 36. FY 2006-2007 MEDICAL ASSISTANCE PROGRAM REIMBURSEMENT OF INPATIENT MENTAL HEALTH SERVICES, COMMUNITY MENTAL HEALTH CENTERS, AND PSYCHIATRISTS. In combination with any other reimbursement increases authorized by law for the indicated providers, the department of human services shall seek federal approval to amend the medical assistance program state plan and shall amend the contract with the department's managed care contractor for mental health services under the program, in order to increase medical assistance program reimbursement rates beginning October 1, 2006, to not more than the maximum amounts indicated, for all of the following providers:

1. Inpatient mental health services provided at hospitals at the cost of the services, subject to Medicaid program upper payment limit rules.
2. Community mental health centers and providers of mental health services to county residents pursuant to a waiver approved under section 225C.7, subsection 3, at 100 percent of the reasonable costs for the provision of services to recipients of medical assistance.

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

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**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