

**CHAPTER 1159****HEALTH AND HUMAN SERVICES PROGRAMS AND PROCEDURES***S.F. 2217*

**AN ACT** relating to health and human services programs and procedures involving compliance with privacy laws applicable to mental health, mental retardation, developmental disabilities, and brain injury services data, medical assistance program eligibility, creation of an electronic health records system task force, foster parent training, young adults transitioning from foster care, and persons with a developmental disability or other special need and the persons' families, and involuntary hospitalization proceedings.

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

DIVISION I  
DISABILITY SERVICES DATA

Section 1. Section 225C.6A, subsection 2, paragraph c, Code 2005, is amended to read as follows:

c. (1) Plan, collect, and analyze data as necessary to issue cost estimates for serving additional populations and providing core disability services statewide. The department shall maintain compliance with applicable federal and state privacy laws to ensure the confidentiality and integrity of individually identifiable disability services data. The department shall regularly assess the status of the compliance in order to assure that data security is protected.

(2) In implementing a system under this paragraph "c" for collecting and analyzing state, county, and private contractor data, the department shall establish a client identifier for the individuals receiving services. The client identifier shall be used in lieu of the individual's name or social security number. The client identifier shall consist of the last four digits of an individual's social security number, the first three letters of the individual's last name, the individual's date of birth, and the individual's gender in an order determined by the department.

Sec. 2. EMERGENCY RULES. 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 of this division 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.

Sec. 3. USE OF CLIENT IDENTIFIER. The client identifier established pursuant to section 225C.6A, subsection 2, paragraph "c", subparagraph (2), as enacted by this division of this Act, shall be used beginning with the data for disability services provided in the fiscal year beginning July 1, 2005, that is submitted by counties in December 2006.

DIVISION II  
MEDICAID ELIGIBILITY — VEHICLE DISREGARD

Sec. 4. Section 249A.3, Code Supplement 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 5B. In determining eligibility for adults under subsection 1, para-

graphs “b”, “e”, “h”, “j”, “k”, “n”, “s”, and “t”; subsection 2, paragraphs “d”, “e”, “h”, “i”, and “j”; and subsection 5, paragraph “b”, one motor vehicle per household shall be disregarded.

DIVISION III  
ELECTRONIC HEALTH RECORDS

Sec. 5. NEW SECTION. 217.41A ELECTRONIC HEALTH RECORDS SYSTEM TASK FORCE.

1. The department of human services shall establish an electronic health records system task force to provide a structure that enables the state to act in a leadership role in the development of state and federal standards for and in the implementation and use of an electronic health records system.

2. The task force shall consist of no more than nine voting members, selected by the director of human services, who represent entities with expertise in developing or implementing electronic health records, including but not limited to the United States veterans administration facilities in the state, multifacility hospital systems in the state, Des Moines university, the university of Iowa hospitals and clinics, and the Iowa healthcare collaborative. In addition, two members of the senate appointed by the president of the senate after consultation with the majority leader and the minority leader of the senate, two members of the house of representatives appointed by the speaker of the house after consultation with the majority leader and the minority leader of the house of representatives, and the commissioner of insurance shall serve as ex officio, nonvoting members of the task force.

3. The task force shall do all of the following:

a. Develop an electronic health records system that provides linkages between multiple settings that utilize health records and that is consistent with requirements for community health records and electronic prescribing.

b. Evaluate the economic model and the anticipated benefits of electronic health records.

c. Provide quarterly updates to the governor and the general assembly regarding progress in the development of national standards and the work of the task force.

DIVISION IV  
FOSTER PARENT TRAINING

Sec. 6. Section 237.5A, unnumbered paragraph 1, Code 2005, is amended to read as follows:

As a condition for initial licensure, each individual licensee shall complete thirty hours of foster parent training offered or approved by the department. However, if the licensee has completed relevant training or has a combination of completed relevant training and experience, and the department deems such training or combination to be an acceptable equivalent to all or a portion of the initial licensure training requirement, or based upon the circumstances of the child and the licensee the department finds there is other good cause, the department may waive all or a portion of the training requirement. Prior to annual renewal of licensure, each individual licensee shall also complete six hours of foster parent training. The training shall include but is not limited to physical care, education, learning disabilities, referral to and receipt of necessary professional services, behavioral assessment and modification, self-assessment, self-living skills, and biological parent contact. An individual licensee may complete the training as part of an approved training program offered by a public or private agency with expertise in the provision of child foster care or in related subject areas. The department shall adopt rules to implement and enforce this training requirement.

DIVISION V  
PREPARATION FOR ADULT LIVING PROGRAM

Sec. 7. NEW SECTION. 234.46 PREPARATION FOR ADULT LIVING PROGRAM.

1. For the purposes of this section, “young adult” means a person who is described by all of the following conditions:

- a. The person is a resident of this state.
  - b. The person is age eighteen, nineteen, or twenty.
  - c. At the time the person became age eighteen, the person received foster care services that were paid for by the state under section 234.35 and the person is no longer receiving such services.
  - d. The person enters into and participates in an individual self-sufficiency plan that complements the person's own efforts for achieving self-sufficiency and the plan provides for one or more of the following:
    - (1) The person attends an accredited school full-time pursuing a course of study leading to a high school diploma.
    - (2) The person attends an instructional program leading to a high school equivalency diploma.
    - (3) The person is enrolled in or pursuing enrollment in a postsecondary education or training program or work training.
    - (4) The person is employed or seeking employment.
2. The division shall establish a preparation for adult living program directed to young adults. The purpose of the program is to assist persons who are leaving foster care services at age eighteen or older in making the transition to self-sufficiency. The department shall adopt rules necessary for administration of the program, including but not limited to eligibility criteria for young adult participation and the services and other support available under the program. The services and other support available under the program may include but are not limited to any of the following:
- a. Support for the young adult continuing to reside with the family that provided family foster care to the young adult.
  - b. Support for a supervised apartment living arrangement.
  - c. Support for participation in education, training, or employment activities.
  - d. Other assistance to enhance the young adult's ability to achieve self-sufficiency.
3. This section shall not be construed as granting an entitlement for any program, services, or other support for the persons described in this section. Any state obligation to provide a program, services, or other support pursuant to this section is limited to the extent of the funds appropriated for the purposes of the program.

Sec. 8. Section 249A.3, subsection 2, Code Supplement 2005, is amended by adding the following new paragraph:

**NEW PARAGRAPH.** k. As allowed under 42 U.S.C. § 1396a(a)(10)(A)(ii)(XVII), individuals under twenty-one years of age who were in foster care under the responsibility of the state on the individuals' eighteenth birthday, and whose income is less than two hundred percent of the most recently revised official poverty guidelines published by the United States department of health and human services. Medical assistance may be provided for an individual described by this paragraph regardless of the individual's resources.

DIVISION VI  
FAMILY SUPPORT SUBSIDY AND COMPREHENSIVE FAMILY  
SUPPORT PROGRAMS

Sec. 9. Section 216E.1, subsection 1, Code 2005, is amended to read as follows:

1. "Assistive device" means any item, piece of equipment, or product system which is purchased, or whose transfer is accepted in this state, and which is used to increase, maintain, or improve the functional capabilities of individuals with disabilities concerning a major life activity as defined in section 225C.46. "Assistive device" does not mean any medical device, surgical device, or organ implanted or transplanted into or attached directly to an individual. "Assistive device" does not mean any device for which a certificate of title is issued by the state department of transportation but does mean any item, piece of equipment, or product system

otherwise meeting the definition of “assistive device” that is incorporated, attached, or included as a modification in or to such a certificated device.

Sec. 10. Section 216E.1, Code 2005, is amended by adding the following new subsection: NEW SUBSECTION. 9A. “Major life activity” includes functions such as caring for one’s self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, or working.

Sec. 11. Section 225C.37, subsection 2, Code 2005, is amended to read as follows:

2. Verification that the family member meets the definitional requirements of section 225C.35, subsection 3. Along with the verification, the application shall identify an age when the family member’s eligibility for the family support subsidy under such definitional requirements will end. The age identified is subject to approval by the department.

Sec. 12. Section 225C.38, subsection 1, paragraphs b and c, Code Supplement 2005, are amended to read as follows:

b. A family support subsidy shall be used to meet the special needs of the family. This subsidy is intended to complement but not supplant public assistance or social service benefits based on economic need, available through governmental programs or other means available to the family.

c. Except as provided in section 225C.41, a family support subsidy for a fiscal year shall be in an amount equivalent to the monthly maximum supplemental security income payment available in Iowa on July 1 of that fiscal year for an adult recipient living in the household of another, as formulated under federal regulations. ~~In addition, the parent or legal guardian of a family member who is in an out-of-home placement at the time of application may receive a one-time lump-sum advance payment of twice the monthly family support subsidy amount for the purpose of meeting the special needs of the family in preparing for in-home care determined by the department in consultation with the comprehensive family support council created in section 225C.48.~~ The parent or legal guardian receiving a family support subsidy may elect to receive a payment amount which is less than the amount determined in accordance with this paragraph.

Sec. 13. Section 225C.38, subsection 2, Code Supplement 2005, is amended by adding the following new paragraph:

NEW PARAGRAPH. c. Unless there are exceptional circumstances and the family requests and receives approval from the department for an exception to policy, a family is not eligible to receive the family support subsidy if any of the following are applicable to the family or the family member for whom the application was submitted:

(1) The family member is a special needs child who was adopted by the family and the family is receiving financial assistance under section 600.17.

(2) Medical assistance home and community-based waiver services are provided for the family member and the family lives in a county in which comprehensive family support program services are available.

(3) Medical assistance home and community-based waiver services are provided for the family member under a consumer choices option.

Sec. 14. Section 225C.40, subsection 3, Code 2005, is amended to read as follows:

3. If an application for a family support subsidy is denied, the family member end-of-eligibility age identified in the application is not approved by the department, or a family support subsidy is terminated by the department, the parent or legal guardian of the affected family member may request, in writing, a hearing before an impartial hearing officer.

Sec. 15. Section 225C.41, unnumbered paragraph 2, Code 2005, is amended to read as follows:

Notwithstanding section 8.33, funds remaining unexpended on June 30 of any fiscal year shall not revert to the general fund of the state but shall remain available to provide family support subsidy payments or to expand the comprehensive family support program in the succeeding fiscal year.

Sec. 16. Section 225C.42, subsection 1, Code Supplement 2005, is amended to read as follows:

1. The department shall conduct a ~~periodic~~ an annual evaluation of the family support subsidy program in conjunction with the comprehensive family support council and shall submit the evaluation report with recommendations to the governor and general assembly. The report shall be submitted on or before October 30 and provide an evaluation of the latest completed fiscal year.

Sec. 17. Section 225C.47, subsection 4, Code 2005, is amended to read as follows:

4. A family may apply to the department or to a family support center developed pursuant to this section for assistance under the comprehensive family support program. The department or family support center shall determine eligibility for the program in accordance with the provisions of this section.

Sec. 18. Section 225C.47, subsection 5, unnumbered paragraph 1, Code 2005, is amended to read as follows:

The department shall design the program in consultation with the ~~personal assistance and comprehensive~~ family support ~~services~~ council created in section 225C.48. The department shall adopt rules to implement the program which provide for all of the following:

Sec. 19. Section 225C.47, subsection 5, paragraph e, Code 2005, is amended to read as follows:

e. A process is available to appeal the department's or family support center's decisions involving families ~~which~~ that apply for the comprehensive family support program and are denied services and support under the comprehensive family support program. The department shall make reasonable efforts to utilize telecommunications so that a family initiating an appeal may complete the appeal process in the family's local geographic area.

Sec. 20. Section 225C.47, subsection 5, paragraph i, Code 2005, is amended to read as follows:

i. The utilization of a voucher system for payment provisions for the ~~children-at-home~~ family support center component of the program developed under subsection 7.

Sec. 21. Section 225C.47, subsection 7, Code 2005, is amended to read as follows:

7. The comprehensive family support program shall include a ~~children-at-home~~ family support center component developed by the department in accordance with this subsection. ~~A family eligible for the comprehensive family support program may choose the children-at-home component.~~ Under the ~~children-at-home~~ component, a family member of an individual with a disability shall be assisted by ~~department staff~~ a family support center in identifying the services and support to be provided to the family under the family support subsidy program or the comprehensive family support program. The identification of services and support shall be based upon the specific needs of the individual and the individual's family which are not met by other service programs available to the individual and the individual's family. ~~Based upon the services and support identified, the department shall develop a contract for direct payment of the services and support provided to the family.~~

Sec. 22. Section 225C.48, Code 2005, is amended to read as follows:

225C.48 ~~PERSONAL ASSISTANCE AND~~ COMPREHENSIVE FAMILY SUPPORT SERVICES COUNCIL.

1. a. An eleven-member ~~personal assistance and~~ comprehensive family support services council is created in the department. The members of the council shall be appointed by the following officials as follows: governor, five members; majority leader of the senate, three members; and speaker of the house, three members. At least three of the governor's appointments and one of each legislative chamber's appointments shall be a family member of an individual with a disability as defined in section 225C.47. At least five of the members shall be current or former service consumers of personal services or family members of such service consumers. Members shall serve for three-year staggered terms. A vacancy on the council shall be filled in the same manner as the original appointment.

b. The members of the council ~~shall be~~ are entitled to reimbursement of actual and necessary expenses incurred in the performance of their official duties. In addition, the members who are current or former service consumers or family members of such service consumers are entitled to a stipend of fifty dollars for each council meeting attended, subject to a limit of one meeting per month. The expenses and stipend shall be paid from the appropriation made for purposes of the comprehensive family support program.

c. The council shall elect officers from among the council's members.<sup>1</sup>

2. The council shall provide ongoing guidance, advice, and direction to the department and other agencies working with the department in the development and implementation of the ~~personal assistance services~~ family support subsidy program created in section 225C.46 ~~225C.36~~ and the comprehensive family support program created in section 225C.47. The council shall perform an annual evaluation of each program, and annually make recommendations concerning each program to the governor and general assembly. The evaluation and recommendations shall be prepared and submitted in conjunction with the evaluation report submitted by the department pursuant to section 225C.42. The department shall provide sufficient staff support to the council to enable the council to carry out its responsibilities.

3. The council shall perform the following duties in consultation with the department and any department staff with duties associated with the ~~personal assistance services~~ family support subsidy and comprehensive family support programs:

a. Oversee the operations of the programs.

b. Coordinate with the department of education and programs administered by the department of education to individuals with a disability, in providing information to individuals and families eligible for the programs ~~under sections 225C.46 and 225C.47.~~

c. Work with the department and counties regarding managed care provisions utilized by the department and counties for services to individuals with a disability to advocate the inclusion of ~~personal assistance services~~ family<sup>2</sup> support subsidy and the comprehensive family support program ~~programs~~ as approved service provisions under managed care.

d. Develop and oversee implementation of evaluation processes for the programs.

e. Oversee statewide training of department and family support center staff regarding the ~~two~~ programs.

f. Oversee efforts to promote public awareness of the programs.

4. The department shall consider recommendations from the council in developing and implementing each program, including the development of administrative rules. The department shall regularly report to the council on the status of each program and any actions planned or taken by the department related to each program.

Sec. 23. Section 225C.49, subsection 3, paragraph b, Code 2005, is amended to read as follows:

b. Utilize internal training resources or contract for additional training of staff concerning the information under paragraph "a" and training of families and individuals as necessary to

<sup>1</sup> See chapter 1185, §75 herein

<sup>2</sup> The phrase "the family" probably intended

~~develop plans and contracts implement the family support subsidy and comprehensive family support programs under sections 225C.46 and 225C.47 this chapter.~~

Sec. 24. Section 225C.49, subsection 4, Code 2005, is amended to read as follows:

4. The department shall designate one individual whose sole duties are to provide central coordination of the programs under sections ~~225C.46~~ 225C.36 and 225C.47 and to work with the ~~personal assistance and comprehensive~~ family support services council<sup>3</sup> to oversee development and implementation of the programs.

Sec. 25. Section 422.11E, subsection 4, paragraph b, Code 2005, is amended to read as follows:

b. "Disability" means the same as defined in section ~~225C.46~~ 15.102 ~~except that it does not include alcoholism.~~

Sec. 26. Section 422.33, subsection 9, paragraph c, subparagraph (2), Code Supplement 2005, is amended to read as follows:

(2) "Disability" means the same as defined in section ~~225C.46~~ 15.102, ~~except that it does not include alcoholism.~~

Sec. 27. Section 225C.46, Code 2005, is repealed.

Sec. 28. CODE EDITOR DIRECTIVE. The Code editor shall revise the headnote to section 225C.42 to change the word "periodic" to "annual".

Sec. 29. TRANSITION PROVISIONS — EFFECTIVE DATE.

1. If a family that adopted a special needs child receives the family support subsidy under section 225C.38 and also receives financial assistance under section 600.17 for the same child as of July 1, 2006, the department of human services shall provide notice to the family that effective January 1, 2007, the family will no longer be eligible for the family support subsidy. The department shall notify the families affected by this subsection on before<sup>4</sup> July 1, 2006. This subsection, being deemed of immediate importance, takes effect upon enactment.

2. If a family that receives the family support subsidy under section 225C.38 as of July 1, 2006, also receives medical assistance home and community-based waiver services and lives in a county in which the comprehensive family support program services are available, effective January 1, 2007, the family is not eligible to receive the family support subsidy. The department of human services shall notify the families affected by this subsection on or before July 1, 2006. This subsection, being deemed of immediate importance, takes effect upon enactment.

3. a. The provision of this division of this Act enacting section 225C.38, subsection 2, paragraph "c", subparagraph (3), relating to medical assistance home and community-based waiver services provided under a consumer choices option, is contingent upon receipt of federal approval of a waiver authorizing utilization of the consumer choices option. The department of human services shall notify the Code editor regarding the receipt of the federal approval and the implementation date.

b. A family receiving family support services that also receives medical assistance home and community-based waiver services and resides in an area in which the consumer choices option is available under the waiver is ineligible to receive the family support subsidy. The department shall notify a family affected by this subsection six months prior to terminating the family support subsidy.

c. This subsection, being deemed of immediate importance, takes effect upon enactment.

4. Any savings generated by the requirements of this section and the program changes implemented pursuant to this Act during the fiscal year beginning July 1, 2006, shall be used by the department of human services to provide eligibility for families on the waiting list for the

<sup>3</sup> The phrase "comprehensive family support ~~services~~ council" probably intended

<sup>4</sup> According to enrolled Act; the phrase "on or before" probably intended

family support subsidy program. If the waiting list is eliminated, any remaining funds shall be used to expand the comprehensive family support program during that fiscal year.

DIVISION VII  
INVOLUNTARY HOSPITALIZATION PROCEEDINGS

Sec. 30. Section 125.82, subsection 3, Code 2005, as amended by 2006 Iowa Acts, Senate File 2362,<sup>5</sup> section 1, 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 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 licensed physician or qualified mental health professional who examined the respondent and agree to submit as evidence the written report of the licensed physician or qualified mental health professional. 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 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 licensed physician or qualified mental health professional is necessary, the court may allow the licensed physician or qualified mental health professional to testify by telephone. The respondent shall be present at the hearing unless prior to the hearing the respondent's attorney stipulates in writing that the attorney has conversed with the respondent, and that in the attorney's judgment the respondent cannot make a meaningful contribution to the hearing, or that the respondent has waived the right to be present, and the basis for the attorney's conclusions. A stipulation to the respondent's absence shall be reviewed by the court before the hearing, and may be rejected if it appears that insufficient grounds are stated or that the respondent's interests would not be served by the respondent's absence.<sup>6</sup>

Sec. 31. Section 229.12, subsection 3, Code 2005, as amended by 2006 Iowa Acts, Senate File 2362,<sup>7</sup> section 3, if enacted is amended to read as follows:

3. The respondent's welfare shall be paramount and the hearing shall be conducted in as informal a manner as may be consistent with orderly procedure, but consistent therewith the issue shall be tried as a civil matter. Such discovery as is permitted under the Iowa rules of civil procedure shall be available to the respondent. The court shall receive all relevant and material evidence which may be offered and need not be bound by the rules of evidence. There shall be a presumption in favor of the respondent, and the burden of evidence in support of the contentions made in the application shall be upon the applicant. The licensed physician or qualified mental health professional who examined the respondent shall be present at the hearing unless ~~prior to the hearing~~ the court for good cause finds that the licensed physician's or qualified mental health professional's presence or testimony is not necessary. The applicant, respondent, and the respondent's attorney may waive the presence or the telephonic appearance of the licensed physician or qualified mental health professional who examined the respondent and agree to submit as evidence the written report of the licensed physician or qualified mental health professional. 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 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 licensed physician or qualified mental health professional is necessary, the court may allow the licensed physician or the qualified mental health professional to testify by telephone. If upon completion of the hearing the court finds that the conten-

<sup>5</sup> Chapter 1116 herein

<sup>6</sup> See chapter 1115, §1 herein

<sup>7</sup> Chapter 1116 herein



tion that the respondent is seriously mentally impaired has not been sustained by clear and convincing evidence, it shall deny the application and terminate the proceeding.

Approved June 2, 2006

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## CHAPTER 1160

### FOSTER CARE PROVIDER RIGHTS AND RESPONSIBILITIES

S.F. 2249

**AN ACT** relating to the rights and responsibilities of a person providing family foster care.

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

Section 1. SHORT TITLE. This Act shall be known and may be cited as the “Foster Parents Bill of Rights”.

Sec. 2. Section 237.3, subsection 2, paragraph k, Code 2005, is amended to read as follows:

k. Elements of a foster care placement agreement outlining rights and responsibilities associated with an individual providing family foster care. The rights and responsibilities shall include but are not limited to all of the following:

(1) Receiving information prior to the child’s placement regarding risk factors concerning the child that are known to the department.

(2) Having regularly scheduled meetings with each case manager assigned to the child.

(3) Receiving access to any reports prepared by a service provider who is working with the child unless the access is prohibited by state or federal law.

Approved June 2, 2006

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## CHAPTER 1161

### AGRICULTURAL PRODUCTION TAX INCENTIVES

S.F. 2268

**AN ACT** relating to financial transactions associated with agricultural production, by providing for tax credits and tax exemptions, and including effective and retroactive and other applicability dates.

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

Section 1. Section 175.2, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 0A. “Agricultural assets” means agricultural land, depreciable agricultural property, crops, or livestock.