

# MENTAL ILLNESS, MENTAL RETARDATION, DEVELOPMENTAL DISABILITIES, OR BRAIN INJURY

## Footnotes

County participation in funding for services to persons with disabilities; §249A.26

Review of out-of-state placements;

98 Acts, ch 1155, §3

## 225C.1 Findings and purpose.

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. 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 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.

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; and that 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.

[81 Acts, ch 78, § 1, 20]

94 Acts, ch 1170, §10

## 225C.2 Definitions.

As used in this chapter:

1. "*Administrator*" means the administrator of the division of mental health and developmental disabilities of the department of human services.
2. "*Central point of coordination process*" means the same as defined in section 331.440.
3. "*Commission*" means the mental health, mental retardation, developmental disabilities, and brain injury commission.
4. "*Department*" means the department of human services.
5. "*Director*" means the director of human services.
6. "*Disability services*" means services or other assistance available to a person with mental illness, mental retardation or other developmental disability, or brain injury.
7. "*Division*" means the division of mental health and developmental disabilities of the department of human services.

8. *"Person with a disability"* means a person with mental illness, mental retardation or other developmental disability, or brain injury.

[S81, § 225C.1; 81 Acts, ch 78, § 2, 20; 82 Acts, ch 1117, § 1, 2]

83 Acts, ch 96, § 157, 159; 94 Acts, ch 1170, §11; 96 Acts, ch 1183, § 12; 2004 Acts, ch 1090, §4, 33

### **225C.3 Division of mental health and developmental disabilities state mental health authority.**

1. The division is designated the state mental health authority as defined in 42 U.S.C. § 201(m) (1976) for the purpose of directing the benefits of the National Mental Health Act, 42 U.S.C. § 201 et seq. This designation does not preclude the board of regents from authorizing or directing any institution under its jurisdiction to carry out educational, prevention, and research activities in the areas of mental health and mental retardation. The division may contract with the board of regents or any institution under the board's jurisdiction to perform any of these functions.

2. The division is designated the state developmental disabilities agency for the purpose of directing the benefits of the Developmental Disabilities Services and Facilities Construction Act, 42 U.S.C. § 6001 et seq.

3. The division is administered by the administrator. The administrator of the division shall be qualified in the general field of mental health, mental retardation, or other disability services, and preferably in more than one field. The administrator shall have at least five years of experience as an administrator in one or more of these fields.

**1, 2.** [C66, 71, 73, 75, 77, § 225B.1; C79, 81, § 225B.2; S81, § 225C.2; 81 Acts, ch 78, § 3, 20]

**3.** [C50, 54, 58, 62, 66, § 218.75; C71, 73, 75, 77, 79, 81, § 217.10; S81, § 225C.2; 81 Acts, ch 78, § 3, 20]

94 Acts, ch 1170, §12

### **225C.4 Administrator's duties.**

1. To the extent funding is available, the administrator shall perform the following duties:

*a.* Prepare and administer state mental health and mental retardation plans for the provision of disability services within the state and prepare and administer the state developmental disabilities plan. The administrator shall consult with the Iowa department of public health, the state board of regents or a body designated by the board for that purpose, the department of management or a body designated by the director of the department for that purpose, the department of education, the department of workforce development and any other appropriate governmental body, in order to facilitate coordination of disability services provided in this state. The state mental health and mental retardation plans shall be consistent with the state health plan, and shall incorporate county disability services plans.

*b.* Assist county boards of supervisors and mental health and developmental disabilities regional planning councils in planning for community-based disability services.

*c.* Emphasize the provision of outpatient services by community mental health centers and local mental retardation providers as a preferable alternative to inpatient hospital services.

*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.

*e.* Encourage and facilitate applied research and preventive educational activities related to causes and appropriate treatment for disabilities. The administrator may designate, or enter into agreements with, private or public agencies to carry out this function.

*f.* Promote coordination of community-based services with those of the state mental health institutes and state resource centers.

*g.* Administer state programs regarding the care, treatment, and supervision of persons with mental illness or mental retardation, except the programs administered by the state board of regents.

*h.* Administer state appropriations to the mental health and developmental disabilities community services fund established by section 225C.7.

*i.* Act as compact administrator with power to effectuate the purposes of interstate compacts on mental health.

*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.

*k.* Prepare a division budget and reports of the division's activities.

*l.* Establish suitable agreements with other state agencies to encourage appropriate care and to facilitate the coordination of disability services.

*m.* Provide consultation and technical assistance to patients' advocates appointed pursuant to section 229.19, in cooperation with the judicial branch and the resident advocate committees appointed for health care facilities pursuant to section 135C.25.

*n.* Provide technical assistance to agencies and organizations, to aid them in meeting standards which are established, or with which compliance is required, under statutes administered by the administrator, including but not limited to chapters 227 and 230A.

*o.* Recommend to the commission minimum accreditation standards for the maintenance and operation of community mental health centers, services, and programs under section 230A.16. The administrator's review and evaluation of the centers, services, and programs for compliance with the adopted standards shall be as provided in section 230A.17.

*p.* Recommend to the commission minimum standards for supported community living services. The administrator shall review and evaluate the services for compliance with the adopted standards.

*q.* In cooperation with the department of inspections and appeals, recommend minimum standards under section 227.4 for the care of and services to persons with mental illness and mental retardation residing in county care facilities.

*r.* In cooperation with the Iowa department of public health, recommend minimum standards for the maintenance and operation of public or private facilities offering disability services, which are not subject to licensure by the department or the department of inspections and appeals.

*s.* Provide technical assistance concerning disability services and funding to counties and mental health and developmental disabilities regional planning councils.

2. The administrator may:

- a.* Apply for, receive, and administer federal aids, grants, and gifts for purposes relating to disability services or programs.
- b.* Establish and supervise suitable standards of care, treatment, and supervision for persons with disabilities in all institutions under the control of the director of human services.
- c.* Appoint professional consultants to furnish advice on any matters pertaining to disability services. The consultants shall be paid as provided by an appropriation of the general assembly.
- d.* Administer a public housing unit within a bureau of the division to apply for, receive, and administer federal assistance, grants, and other public or private funds for purposes related to providing housing in accordance with section 225C.45.

[C50, 54, 58, 62, 66, § 218.76; C71, 73, 75, 77, 79, 81, § 217.11, 217.12; S81, § 225C.3; 81 Acts, ch 78, § 4, 20]

83 Acts, ch 96, § 157, 159; 85 Acts, ch 122, §1; 90 Acts, ch 1204, § 45; 92 Acts, ch 1128, § 1; 94 Acts, ch 1170, §13; 95 Acts, ch 82, §2, 13; 95 Acts, ch 206, §7, 12; 96 Acts, ch 1186, § 23; 98 Acts, ch 1047, §20; 99 Acts, ch 129, §9; 99 Acts, ch 160, §2, 3; 2000 Acts, ch 1112, §33, 51

**225C.5 Mental health, mental retardation, developmental disabilities, and brain injury commission.**

1. A mental health, mental retardation, developmental disabilities, and brain injury commission is created as the state policy-making body for the provision of services to persons with mental illness, mental retardation or other developmental disabilities, or brain injury. The commission shall consist of sixteen voting members appointed to three-year staggered terms by the governor and subject to confirmation by the senate. Commission members shall be appointed on the basis of interest and experience in the fields of mental health, mental retardation or other developmental disabilities, and brain injury, in a manner so as to ensure adequate representation from persons with disabilities and individuals knowledgeable concerning disability services. The department shall provide staff support to the commission, and the commission may utilize staff support and other assistance provided to the commission by other persons. The commission shall meet at least four times per year. Members of the commission shall include the following persons who, at the time of appointment to the commission, are active members of the indicated groups:

- a.* Three members shall be members of a county board of supervisors selected from nominees submitted by the county supervisor affiliate of the Iowa state association of counties.
- b.* Two members shall be selected from nominees submitted by the director.
- c.* One member shall be an active board member of a community mental health center selected from nominees submitted by the Iowa association of community providers.
- d.* One member shall be an active board member of an agency serving persons with a developmental disability selected from nominees submitted by the Iowa association of community providers.
- e.* One member shall be a board member or employee of a provider of mental health or developmental disabilities services to children.
- f.* Two members shall be administrators of the central point of coordination process established in accordance with section 331.440 selected from nominees submitted by the community services affiliate of the Iowa state association of counties.
- g.* One member shall be selected from nominees submitted by the state's council of the association of federal,

state, county, and municipal employees.

*h.* Three members shall be service consumers or family members of service consumers. Of these members, one shall be a service consumer, one shall be a parent of a child service consumer, and one shall be a parent or other family member of a person admitted to and living at a state resource center.

*i.* Two members shall be selected from nominees submitted by service advocates. Of these members, one shall be an active member of a statewide organization for persons with brain injury.

*j.* In addition to the voting members, the membership shall include four members of the general assembly with one member designated by each of the following: the majority leader of the senate, the minority leader of the senate, the speaker of the house of representatives, and the minority leader of the house of representatives. A legislative member serves in an ex officio, nonvoting capacity and is eligible for per diem and expenses as provided in section 2.10.

2. The three-year terms shall begin and end as provided in section 69.19. Vacancies on the commission shall be filled as provided in section 2.32. A member shall not be appointed for more than two consecutive three-year terms.

3. Members of the commission shall qualify by taking the oath of office prescribed by law for state officers. At its first meeting of each year, the commission shall organize by electing a chairperson and a vice chairperson for terms of one year. Commission members are entitled to a per diem as specified in section 7E.6 and reimbursement for actual and necessary expenses incurred while engaged in their official duties, to be paid from funds appropriated to the department.

[C66, 71, 73, 75, 77, § 225B.2, 225B.3, 225B.6; C79, 81, § 225B.3; S81, § 225C.4; 81 Acts, ch 78, § 5, 20]

90 Acts, ch 1256, §39; 94 Acts, ch 1170, §14; 2002 Acts, ch 1146, §1; 2002 Acts, 2nd Ex, ch 1003, § 238, 262; 2003 Acts, ch 101, §3, 4; 2004 Acts, ch 1090, §5, 33

## **Footnotes**

Confirmation; § 2.32

## **225C.6 Duties of commission.**

1. To the extent funding is available, the commission shall perform the following duties:

*a.* Advise the administrator on the administration of the overall state disability services system.

*b.* Adopt necessary rules pursuant to chapter 17A which relate to disability programs and services, including but not limited to definitions of each disability included within the term "*disability services*" as necessary for purposes of state, county, and regional planning, programs, and services.

*c.* Adopt standards for community mental health centers, services, and programs as recommended under section 230A.16. The commission shall determine whether to grant, deny, or revoke the accreditation of the centers, services, and programs.

*d.* Adopt standards for the care of and services to persons with mental illness and mental retardation residing in county care facilities recommended under section 227.4.

*e.* Unless another governmental body sets standards for a service available to persons with disabilities, adopt state standards for that service. The commission shall provide that a service provider's compliance with

standards for a service set by a nationally recognized body shall be deemed to be in compliance with the state standards adopted by the commission for that service. The commission shall adopt state standards for those residential and community-based providers of services to persons with mental illness or developmental disabilities that are not otherwise subject to licensure by the department of human services or department of inspections and appeals, including but not limited to services payable under the adult rehabilitation option of the medical assistance program and other services payable from funds credited to a county mental health, mental retardation, and developmental disabilities services fund created in section 331.424A. In addition, the commission shall review the licensing standards used by the department of human services or department of inspections and appeals for those facilities providing services to persons with mental illness or developmental disabilities.

*f.* Assure that proper appeal procedures are available to persons aggrieved by decisions, actions, or circumstances relating to accreditation.

*g.* Adopt necessary rules for awarding grants from the state and federal government as well as other moneys that become available to the division for grant purposes.

*h.* Annually submit to the governor and the general assembly:

(1) A report concerning the activities of the commission.

(2) Recommendations formulated by the commission for changes in law.

*i.* By January 1 of each odd-numbered year, submit to the governor and the general assembly an evaluation of:

(1) The extent to which services to persons with disabilities are actually available to persons in each county in the state and the quality of those services.

(2) The effectiveness of the services being provided by disability service providers in this state and by each of the state mental health institutes established under chapter 226 and by each of the state resource centers established under chapter 222.

*j.* Advise the administrator, the council on human services, the governor, and the general assembly on budgets and appropriations concerning disability services.

*k.* Coordinate activities with the governor's developmental disabilities council.

*l.* Establish standards for the provision under medical assistance of individual case management services. The commission shall determine whether to grant, deny, or revoke the accreditation of the services.

*m.* Identify model eligibility guidelines for disability services.

*n.* Identify basic disability services for planning purposes.

*o.* Prepare five-year plans based upon the county management plans developed pursuant to section 331.439.

*p.* Work with other state agencies on coordinating, collaborating, and communicating concerning activities involving persons with disabilities.

*q.* Perform analyses and other functions associated with a redesign of the mental health and developmental disability services systems for adults and for children.

2. Notwithstanding section 217.3, subsection 6, the commission may adopt the rules authorized by subsection 1, pursuant to chapter 17A, without prior review and approval of those rules by the council on human services.

3. If the executive branch creates a committee, task force, council, or other advisory body to consider mental health and developmental disabilities policy, services, or program options involving children or adult consumers, the commission is designated to receive and consider any report, findings, recommendations, or other work product issued by such body. The commission may address the report, findings, recommendations, or other work product in fulfilling the commission's functions and to advise the department, council on human services, governor, and general assembly concerning disability services.

[C66, 71, 73, 75, 77, § 225B.4, 225B.7; C79, 81, § 225B.3(2); S81, § 225C.5; 81 Acts, ch 78, § 6, 20]

83 Acts, ch 96, § 157, 159; 88 Acts, ch 1245, § 1; 94 Acts, ch 1170, §15; 98 Acts, ch 1181, §15; 99 Acts, ch 160, §4, 5; 2000 Acts, ch 1112, §51; 2001 Acts, ch 74, § 14; 2001 Acts, ch 155, §28; 2002 Acts, ch 1146, §2, 3, 25

Applicability of the requirements of subsection 3 to the work products of other bodies created prior to July 1, 2002; 2002 Acts, ch 1146, § 25

### **225C.6A Mental health, developmental disability, and brain injury service system redesign implementation.**

1. *Purpose.* It is the intent of the general assembly to implement a redesign of the mental health, developmental disability, and brain injury service system over a period of years in order to transition to a coordinated system for Iowans with mental illness, mental retardation or other developmental disabilities, or brain injury. Because of the significance of the redesign to the persons who may be affected by it and the degree of uncertainty regarding the extent of funding changes necessary for implementation, the department and the commission shall not implement a redesign provision through rulemaking or other means unless specific statutory authority provides for the provision's implementation.

2. *Initial activities.* For the fiscal years beginning July 1, 2004, and July 1, 2005, the commission shall do the following:

a. Identify sources of revenue to support statewide delivery of core disability services to eligible disability populations.

b. Further develop adult disability services system redesign proposals and propose a redesign of the children's disability service system. The redesign of the children's system shall address issues associated with an individual's transition between the two systems.

c. Plan, collect, and analyze data as necessary to issue cost estimates for serving additional populations and providing core disability services statewide.

d. With consumer input, identify and propose standardized functional assessment tools and processes for use in the eligibility determination process when eligibility for a particular disability population group is implemented. The tools and processes shall be integrated with those utilized for the medical assistance program under chapter 249A. For the initial diagnostic criteria, the commission shall consider identifying a qualifying functional assessment score and any of the following diagnoses: mental illness, chronic mental illness, mental retardation, developmental disability, or brain injury.

e. The commission shall adopt a multiyear plan for developing and providing the data, cost projections, revenue requirements, and other information needed to support decisionmaking concerning redesign

provisions. The information shall be provided as part of the commission's regular reports to the governor and general assembly or more often as determined to be appropriate by the commission.

f. Propose case rates for disability services.

g. Work with county representatives and other qualified persons to develop an implementation plan for replacing the county of legal settlement approach to determining service system funding responsibilities with an approach based upon residency. The plan shall address a statewide standard for proof of residency, outline a plan for establishing a data system for identifying residency of eligible individuals, address residency issues for individuals who began residing in a county due to a court order or criminal sentence or to obtain services in that county, recommend an approach for contesting a residency determination, and address other implementation issues.

2004 Acts, ch 1090, §34

Commission's annual report to the governor and general assembly for consideration in 2005, 2006, and 2007 to include a report on actions taken and proposals made to implement system redesign; progress reports to be submitted in July 2004, July 2005, and July 2006; state-level adult disability service system redesign to be addressed in FY 2005; 2004 Acts, ch 1090, §35

### **225C.7 Mental health and developmental disabilities community services fund.**

1. A mental health and developmental disabilities community services fund is established in the office of the treasurer of state under the authority of the department, which shall consist of the amounts appropriated to the fund by the general assembly for each fiscal year. Before completion of the department's budget estimate as required by section 8.23, the department shall determine and include in the estimate the amount which should be appropriated to the fund for the forthcoming fiscal period in order to implement the purpose stated in section 225C.1.

2. Moneys appropriated to the fund shall be allocated to counties for funding of community-based mental health, mental retardation, developmental disabilities, and brain injury services in the manner provided in the appropriation to the fund.

3. If a county has not established or is not affiliated with a community mental health center under chapter 230A, the county shall expend a portion of the money received under this appropriation to contract with a community mental health center to provide mental health services to the county's residents. If such a contractual relationship is unworkable or undesirable, the commission may waive the expenditure requirement. However, if the commission waives the requirement, the commission shall address the specific concerns of the county and shall attempt to facilitate the provision of mental health services to the county's residents through an affiliation agreement or other means.

4. a. A county is entitled to receive money from the fund if that county raised by county levy and expended for mental health, mental retardation, and developmental disabilities services, in the preceding fiscal year, an amount of money at least equal to the amount so raised and expended for those purposes during the fiscal year beginning July 1, 1980.

b. With reference to the fiscal year beginning July 1, 1980, money "*raised by county levy and expended for mental health, mental retardation, and developmental disabilities services*" means the county's maintenance of effort determined by using the general allocation application for the state community mental health and mental retardation services fund under section 225C.10, subsection 1, Code 1993. The department, with the agreement of each county, shall establish the actual amount expended by each county for persons with mental illness, mental retardation, or a developmental disability in the fiscal year which began on July 1, 1980, and this amount shall be deemed each county's maintenance of effort.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 227.17; S81, § 225C.6; 81 Acts, ch 78, § 7, 20]

94 Acts, ch 1170, §16; 97 Acts, ch 169, § 7; 2004 Acts, ch 1090, §6

### **225C.8 Legal settlement dispute resolution.**

1. *a.* The dispute resolution process implemented in accordance with this section applies to legal settlement disputes and is not applicable to disputes involving persons committed to a state facility pursuant to chapter 812 or rule of criminal procedure 2.22, Iowa court rules, or to disputes of service authorization decisions made through the county central point of coordination process.

*b.* If a county receives a billing for services provided to a person under chapter 222, 230, or 249A, or objects to a legal settlement determination certified by the department or another county and asserts either that the person has legal settlement in another county or that the person has no legal settlement or the legal settlement is unknown so that the person is deemed to be a state case, the person's legal settlement status shall be determined as provided in this section. The county shall notify the department of the county's assertion within one hundred twenty days of receiving the billing. If the county asserts that the person has legal settlement in another county, that county shall be notified at the same time as the department. If the department disputes a legal settlement determination certification made by a county, the department shall notify the affected counties of the department's assertion.

2. The department or the county that received the notification, as applicable, shall respond to the party that provided the notification within forty-five days of receiving the notification. If the parties cannot agree to a settlement as to the person's legal settlement status within ninety days of the date of notification, on motion of any of the parties, the matter shall be referred to the department of inspections and appeals for a contested case hearing under chapter 17A before an administrative law judge assigned in accordance with section 10A.801 to determine the person's legal settlement status.

3. *a.* The administrative law judge's determination of the person's legal settlement status is a final agency action, notwithstanding contrary provisions of section 17A.15. The party that does not prevail in the determination or subsequent judicial review is liable for costs associated with the proceeding, including reimbursement of the department of inspections and appeals' actual costs associated with the administrative proceeding. Judicial review of the determination may be sought in accordance with section 17A.19.

*b.* If following the determination of a person's legal settlement status in accordance with this section, additional evidence becomes available that merits a change in that determination, the parties affected may change the determination by mutual agreement. Otherwise, a party may move that the matter be reconsidered.

4. Unless a petition is filed for judicial review, the administrative law judge's determination of the person's legal settlement status shall result in one of the following:

*a.* If a county is determined to be the person's county of legal settlement, the county shall pay the amounts due and shall reimburse any other amounts paid for services provided under chapter 222, 230, or 249A by the county or the department on the person's behalf prior to issuance of the decision. The payment or reimbursement shall be remitted within forty-five days of the date the decision was issued. After the forty-five-day period, a penalty may be applied as authorized under section 222.68, 222.75, or 230.22.

*b.* If it is determined that the person has no legal settlement or the legal settlement is unknown so that the person is deemed to be a state case, the department shall credit the county for any payment made on behalf of the person by the county prior to issuance of the decision. The credit shall be applied by the department on a county billing no later than the end of the quarter immediately following the date of the decision's issuance.

2004 Acts, ch 1090, §33, 36

Timeframes specified in this section apply to legal settlement disputes involving billings for services provided on or after July 1, 2004; for provisions applicable to disputes involving billings for services provided prior to July 1, 2004, see 2004 Acts, ch 1090, §54

**225C.9 Formula for distribution of general allocation.** Repealed by 94 Acts, ch 1170, §54. See §225C.7.

**225C.10 Requirements of counties receiving general allocation money.** Repealed by 94 Acts, ch 1170, §54. See §225C.7.

**225C.11 Special allocation.** Repealed by 94 Acts, ch 1170, §54. See §225C.7.

**225C.12 Partial reimbursement to counties for local inpatient mental health care and treatment.**

1. A county which pays, from county funds budgeted under section 331.424A, the cost of care and treatment of a person with mental illness who is admitted pursuant to a preliminary diagnostic evaluation under sections 225C.14 to 225C.17 for treatment as an inpatient of a hospital facility, other than a state mental health institute, which has a designated mental health program and is a hospital accredited by the accreditation program for hospital facilities of the joint commission on accreditation of health care organizations, is entitled to reimbursement from the state for a portion of the daily cost so incurred by the county. However, a county is not entitled to reimbursement for a cost incurred in connection with the hospitalization of a person who is eligible for medical assistance under chapter 249A, or who is entitled to have care or treatment paid for by any other third-party payor, or who is admitted for preliminary diagnostic evaluation under sections 225C.14 to 225C.17. The amount of reimbursement for the cost of treatment of a local inpatient to which a county is entitled, on a per-patient-per-day basis, is an amount equal to twenty percent of the average of the state mental health institutes' individual average daily patient costs in the most recent calendar quarter for the program in which the local inpatient would have been served if the patient had been admitted to a state mental health institute.

2. A county may claim reimbursement by filing with the administrator a claim in a form prescribed by the administrator by rule. Claims may be filed on a quarterly basis, and when received shall be verified as soon as reasonably possible by the administrator. The administrator shall certify to the director of the department of administrative services the amount to which each county claiming reimbursement is entitled, and the director of the department of administrative services shall issue warrants to the respective counties drawn upon funds appropriated by the general assembly for the purpose of this section. A county shall place funds received under this section in the county mental health, mental retardation, and developmental disabilities services fund created under section 331.424A. If the appropriation for a fiscal year is insufficient to pay all claims arising under this section, the director of the department of administrative services shall prorate the funds appropriated for that year among the claimant counties so that an equal proportion of each county's claim is paid in each quarter for which proration is necessary.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 227.16, 227.18; S81, § 225C.11; 81 Acts, ch 78, § 12, 20, ch 117, § 1028]

96 Acts, ch 1129, § 113; 96 Acts, ch 1183, § 13; 2003 Acts, ch 145, §286

**225C.13 Authority to establish and lease facilities.**

1. The administrator assigned, in accordance with section 218.1, to control the state mental health institutes and the state resource centers may enter into agreements under which a facility or portion of a facility administered by the administrator is leased to a department or division of state government, a county or group of counties, or a private nonprofit corporation organized under chapter 504 or 504A. A lease executed under this section shall require that the lessee use the leased premises to deliver either disability services or other services normally delivered by the lessee.

2. The 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.

[S81, § 225C.12; 81 Acts, ch 78, § 14, 20]

94 Acts, ch 1170, §17; 2000 Acts, ch 1112, §34; 2004 Acts, ch 1175, §393

Reference to chapter 504A in subsection 1 to be deleted editorially upon repeal of that chapter; 2004 Acts, ch 1049, §191

#### **225C.14 Preliminary diagnostic evaluation.**

1. Except in cases of medical emergency, a person shall be admitted to a state mental health institute as an inpatient only after a preliminary diagnostic evaluation performed through the central point of coordination process has confirmed that the admission is appropriate to the person's mental health needs, and that no suitable alternative method of providing the needed services in a less restrictive setting or in or nearer to the person's home community is currently available. If provided for through the central point of coordination process, the evaluation may be performed by a community mental health center or by an alternative diagnostic facility. The policy established by this section shall be implemented in the manner and to the extent prescribed by sections 225C.15, 225C.16 and 225C.17.

2. As used in this section and sections 225C.15, 225C.16 and 225C.17, the term "*medical emergency*" means a situation in which a prospective patient is received at a state mental health institute in a condition which, in the opinion of the chief medical officer, or that officer's physician designee, requires the immediate admission of the person notwithstanding the policy stated in subsection 1.

[C79, 81, § 225B.4; S81, § 225C.13; 81 Acts, ch 78, § 15, 20]

94 Acts, ch 1170, §18; 96 Acts, ch 1183, § 14; 2004 Acts, ch 1090, §33

#### **225C.15 County implementation of evaluations.**

The board of supervisors of a county shall, no later than July 1, 1982, require that the policy stated in section 225C.14 be followed with respect to admission of persons from that county to a state mental health institute. A community mental health center which is supported, directly or in affiliation with other counties, by that county may perform the preliminary diagnostic evaluations for that county, unless the performance of the evaluations is not covered by the agreement entered into by the county and the center under section 230A.12, and the center's director certifies to the board of supervisors that the center does not have the capacity to perform the evaluations, in which case the board of supervisors shall proceed under section 225C.17.

[C79, 81, § 225B.5; S81, § 225C.14; 81 Acts, ch 78, § 16, 20]

96 Acts, ch 1183, § 15

#### **225C.16 Referrals for evaluation.**

1. The chief medical officer of a state mental health institute, or that officer's physician designee, shall advise

a person residing in that county who applies for voluntary admission, or a person applying for the voluntary admission of another person who resides in that county, in accordance with section 229.41, that the board of supervisors has implemented the policy stated in section 225C.14, and shall advise that a preliminary diagnostic evaluation of the prospective patient be sought, if that has not already been done. This subsection does not apply when voluntary admission is sought in accordance with section 229.41 under circumstances which, in the opinion of the chief medical officer or that officer's physician designee, constitute a medical emergency.

2. The clerk of the district court in that county shall refer a person applying for authorization for voluntary admission, or for authorization for voluntary admission of another person, in accordance with section 229.42, to the appropriate entity designated through the central point of coordination process under section 225C.14 for the preliminary diagnostic evaluation unless the applicant furnishes a written statement from the appropriate entity which indicates that the evaluation has been performed and that the person's admission to a state mental health institute is appropriate. This subsection does not apply when authorization for voluntary admission is sought under circumstances which, in the opinion of the chief medical officer or that officer's physician designee, constitute a medical emergency.

3. Judges of the district court in that county or the judicial hospitalization referee appointed for that county shall so far as possible arrange for the entity designated through the central point of coordination process under section 225C.14 to perform a prehearing examination of a respondent required under section 229.8, subsection 3, paragraph "b".

4. The chief medical officer of a state mental health institute shall promptly submit to the appropriate entity designated through the central point of coordination process under section 225C.14 a report of the voluntary admission of a patient under the medical emergency clauses of subsections 1 and 2. The report shall explain the nature of the emergency which necessitated the admission of the patient without a preliminary diagnostic evaluation by the designated entity.

[C79, 81, § 225B.6; S81, § 225C.15; 81 Acts, ch 78, § 17, 20]

96 Acts, ch 1183, § 16; 2004 Acts, ch 1090, §33

#### **225C.17 Alternative diagnostic facility.**

If a county is not served by a community mental health center having the capacity to perform the required preliminary diagnostic evaluations, the board of supervisors shall arrange for the evaluations to be performed by an alternative diagnostic facility for the period until the county is served by a community mental health center with the capacity to provide that service. An alternative diagnostic facility may be the outpatient service of a state mental health institute or any other mental health facility or service able to furnish the requisite professional skills to properly perform a preliminary diagnostic evaluation of a person whose admission to a state mental health institute is being sought or considered on either a voluntary or an involuntary basis.

[C79, 81, § 225B.7; S81, § 225C.16; 81 Acts, ch 78, § 18, 20]

#### **225C.18 Mental health and developmental disabilities regional planning councils.**

1. A county may participate in a mental health and developmental disabilities regional planning council. The region encompassed by a planning council shall be determined by the counties participating in the planning council.

2. The boards of supervisors of the counties comprising the planning council shall determine the size and membership of the planning council.

3. A planning council may perform the following tasks:

- a. Develop a planning process and plan for services to persons with disabilities residing in the region. Planning shall encompass a five-year time span and shall be annually updated. The plans shall be submitted to the boards of supervisors of the counties in the region and to the commission.
- b. Recommend the expenditure of all state and county funds, and to the extent possible, federal funds for disability services within the region.
- c. Provide for input into the planning process by the public and service consumers, providers, and funders.
- d. Work with staff assigned to the planning council to perform needs assessments, plan development, and to work with consumers, providers, and funders, and fulfill other necessary functions.
- e. Make recommendations to the county boards of supervisors associated with the planning area and to the commission, concerning disability services and related budget issues.
- f. Perform other duties at the request of the counties comprising the region and of the commission.

4. The provisions of this section relating to services to persons with disabilities are not intended as and shall not be construed as a requirement to provide services.

94 Acts, ch 1170, §19; 97 Acts, ch 169, § 811

**225C.19 Mental health, mental retardation, and developmental disabilities advisory committee.**

Repealed by 92 Acts, ch 1247, § 19.

**225C.20 Responsibilities of counties for individual case management services.**

Individual case management services funded under medical assistance shall be provided by the department except when a county or a consortium of counties contracts with the department to provide the services. A county or consortium of counties may contract to be the provider at any time and the department shall agree to the contract so long as the contract meets the standards for case management adopted by the department. The county or consortium of counties may subcontract for the provision of case management services so long as the subcontract meets the same standards. A county board of supervisors may change the provider of individual case management services at any time. If the current or proposed contract is with the department, the county board of supervisors shall provide written notification of a change at least ninety days before the date the change will take effect.

88 Acts, ch 1245, §7; 89 Acts, ch 283, § 20; 93 Acts, ch 172, § 31; 2000 Acts, ch 1112, §53, 58

**225C.21 Supported community living services.**

1. As used in this section, "*supported community living services*" means services provided in a noninstitutional setting to adult persons with mental illness, mental retardation, or developmental disabilities to meet the persons' daily living needs.
2. The commission shall adopt rules pursuant to chapter 17A establishing minimum standards for supported community living services. The commission shall determine whether to grant, deny, or revoke approval for any supported community living service.
3. Approved supported community living services may receive funding from the state, federal and state social services block grant funds, and other appropriate funding sources, consistent with state legislation and federal

regulations. The funding may be provided on a per diem, per hour, or grant basis, as appropriate.

85 Acts, ch 141, §1; 91 Acts, ch 38, §1

CS85, §225C.19

C89, §225C.21

94 Acts, ch 1170, §20; 96 Acts, ch 1129, § 52; 98 Acts, ch 1181, §12; 99 Acts, ch 160, §6

**225C.22 Central registry for brain injuries.** Repealed by 89 Acts, ch 320, § 13. See § 135.22.

**225C.23 Brain injury recognized as disability.**

1. The department of human services, the Iowa department of public health, the department of education and its divisions of special education and vocational rehabilitation services, the department of human rights and its division for persons with disabilities, the department for the blind, and all other state agencies which serve persons with brain injuries, shall recognize brain injury as a distinct disability and shall identify those persons with brain injuries among the persons served by the state agency.

2. For the purposes of this section and section 135.22A,\* "*brain injury*" means the occurrence of injury to the head not primarily related to a degenerative disease or aging process that is documented in a medical record with one or more of the following conditions attributed to the head injury:

a. An observed or self-reported decreased level of consciousness.

b. Amnesia.

c. A skull fracture.

d. An objective neurological or neuropsychological abnormality.

e. A diagnosed intracranial lesion.

88 Acts, ch 1219, §2; 94 Acts, ch 1068, §7; 94 Acts, ch 1109, §3; 99 Acts, ch 141, §30

**Footnotes**

\*Section 135.22A refers to "brain injury" definition in §135.22

**225C.24 Future status of division.** Repealed by 90 Acts, ch 1012, § 1, 2.

**225C.25 Short title.**

Sections 225C.25 through 225C.28B shall be known as "the bill of rights and service quality standards of persons with mental retardation, developmental disabilities, brain injury, or chronic mental illness".

85 Acts, ch 249, § 2; 92 Acts, ch 1241, § 63

**225C.26 Scope.**

These rights and service quality standards apply to any person with mental retardation, a developmental

disability, brain injury, or chronic mental illness who receives services which are funded in whole or in part by public funds or services which are permitted under Iowa law.

85 Acts, ch 249, § 3; 92 Acts, ch 1241, § 64

**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 re- tardation, developmental disabilities, or chronic mental illness in the state.
2. Encouraging the development of the ability and poten- tial of each person with mental retardation, developmental disabilities, 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.

85 Acts, ch 249, § 4; 92 Acts, ch 1241, § 65; 92 Acts, ch 1247, § 15, 16

**225C.28 Rights.** Repealed by 92 Acts, ch 1241, § 79. See § 225C.28A and 225C.28B.

**225C.28A Service quality standards.**

As the state participates more fully in funding services 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 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.

92 Acts, ch 1241, § 66

**225C.28B Rights of persons with mental retardation, developmental disabilities, brain injury, or chronic mental illness.**

All of the following rights shall apply to a person with mental retardation, a developmental disability, brain injury, or chronic mental illness:

1. *Wage protection.* A person with mental retardation, a developmental disability, brain injury, or chronic mental illness engaged in work programs shall be paid wages commensurate with the going rate for comparable work and productivity.
2. *Insurance protection.* Pursuant to section 507B.4, subsection 7, a person or designated group of persons shall not be denied insurance coverage by reason of mental retardation, a developmental disability, brain injury, or chronic mental illness.
3. *Due process.* A person with mental retardation, a developmental disability, brain injury, or chronic mental illness retains the right to citizenship in accordance with the laws of the state.
4. *Participation in planning activities.* If an individual treatment, habilitation, and program plan is developed for a person with mental retardation, a developmental disability, brain injury, or chronic mental illness, the person has the right to participate in the formulation of the plan.

92 Acts, ch 1241, § 67

### **225C.29 Compliance.**

Except for a violation of section 225C.28B, subsection 2, the sole remedy for violation of a rule adopted by the commission to implement sections 225C.25 through 225C.28B shall be by a proceeding for compliance initiated by request to the division pursuant to chapter 17A. Any decision of the division shall be in accordance with due process of law and is subject to appeal to the Iowa district court pursuant to sections 17A.19 and 17A.20 by any aggrieved party. Either the division or a party in interest may apply to the Iowa district court for an order to enforce the decision of the division. Any rules adopted by the commission to implement sections 225C.25 through 225C.28B do not create any right, entitlement, property or liberty right or interest, or private cause of action for damages against the state or a political subdivision of the state or for which the state or a political subdivision of the state would be responsible. Any violation of section 225C.28B, subsection 2, shall solely be subject to the enforcement by the commissioner of insurance and penalties granted by chapter 507B for a violation of section 507B.4, subsection 7.

85 Acts, ch 249, § 6; 92 Acts, ch 1241, § 68; 92 Acts, ch 1247, § 17

**225C.30 and 225C.31** Reserved.

### **225C.32 Plan appeals process.**

The department shall establish an appeals process by which a mental health, mental retardation, and developmental disabilities coordinating board or an affected party may appeal a decision of the department or of the coordinating board.

88 Acts, ch 1245, §8

**225C.33 and 225C.34** Reserved.

### **225C.35 Definitions.**

For purposes of this division, unless the context otherwise requires:

1. *"Department"* means the department of human services.
2. *"Family"* means a family member and the parent or legal guardian of the family member.

3. *"Family member"* means a person less than eighteen years of age who by educational determination has a moderate, severe, or profound educational disability or special health care needs or who otherwise meets the definition of developmental disability in the federal Developmental Disabilities Act, section 102(5), as codified in 42 U.S.C. § 6001(5). The department shall adopt rules establishing procedures for determining whether a child has a developmental disability.

4. *"Legal guardian"* means a person appointed by a court to exercise powers over a family member.

5. *"Medical assistance"* means payment of all or part of the care authorized to be provided pursuant to chapter 249A.

6. *"Parent"* means a biological or adoptive parent.

7. *"Supplemental security income"* means financial assistance provided to individuals pursuant to Title XVI of the federal Social Security Act, 42 U.S.C. § 1381 to 1383c.

88 Acts, ch 1122, §2; 90 Acts, ch 1114, § 1; 96 Acts, ch 1129, § 113

### **225C.36 Family support subsidy pro- gram.**

A family support subsidy program is created as specified in this division. The purpose of the family support subsidy pro- gram is to keep families together by defraying some of the special costs of caring for a family member at home. The department shall adopt rules to implement the purposes of this section and sections 225C.37 through 225C.42 which assure that families retain the greatest possible flexibility in determining appropriate use of the subsidy.

88 Acts, ch 1122, § 3; 90 Acts, ch 1114, §2

### **225C.37 Program specifications rules.**

A parent or legal guardian of a family member may apply to the local office of the department for the family support subsidy program. The application shall include:

1. A statement that the family resides in a county of this state.
2. Verification that the family member meets the definitional requirements of section 225C.35, subsection 3.
3. A statement that the family member resides, or is expected to reside, with the parent or legal guardian of the family member or, on a temporary basis, with another relative of the family member.
4. A statement that if the child receives medical assistance, then the family support subsidy shall only be used for the cost of a service which is not covered by medical assistance. The family may receive welfare assistance for which the family is eligible.
5. Verification that the net taxable income for the family for the calendar year immediately preceding the date of application did not exceed forty thousand dollars unless it can be verified that the estimated net taxable income for the family for the year in which the application is made will be less than forty thousand dollars.

Within the limits set by the appropriation for this purpose, the department shall approve or disapprove the application based on the family support services plan which identifies the needs of the child and the family and the eligibility criteria required to be included in the application under subsections 1 through 5 and shall notify the parent or legal guardian of the decision.

**225C.38 Payment amount reports.**

1. If an application for a family support subsidy is approved by the department:

- a.* A family support subsidy shall be paid to the parent or legal guardian on behalf of the family member. An approved subsidy shall be payable as of the first of the next month after the department approves the written application.
- 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.
- 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. 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.

2. The department shall administer the family support subsidy program and the payments made under the program as follows:

- a.* In each fiscal year, the department shall establish a figure for the number of family members for whom a family support subsidy shall be provided at any one time during the fiscal year. The figure shall be established by dividing the amount appropriated by the general assembly for family support subsidy payments during the fiscal year by the family support subsidy payment amount established in subsection 1, paragraph "c".
- b.* On or before July 15 in each fiscal year, the department shall approve the provision of a number of family support subsidies equal to the figure established in paragraph "a". During any thirty-day period, the number of family members for whom a family support subsidy is provided shall not be less than this figure.

3. The parent or legal guardian who receives a family support subsidy shall report, in writing, the following information to the department:

- a.* Not less than annually, a statement that the family support subsidy was used to meet the special needs of the family.
- b.* The occurrence of any event listed in section 225C.40.
- c.* A request to terminate the family support subsidy.

**225C.39 Subsidy payments not alienable.**

Family support subsidy payments shall not be alienable by action, including but not limited to, assignment, sale, garnishment, or execution, and in the event of bankruptcy shall not pass to or through a trustee or any other person acting on behalf of creditors.

88 Acts, ch 1122, §6

**225C.40 Termination or denial of subsidy hearing.**

1. The family support subsidy shall terminate if any of the following occur:

*a.* The family member dies.

*b.* The family no longer meets the eligibility criteria in section 225C.37.

*c.* The family member attains the age of eighteen years.

*d.* The family member is no longer eligible for special education pursuant to section 256B.9, subsection 1, paragraph "c" or "d".

2. The family support subsidy may be terminated by the department if a report required by section 225C.38, subsection 3, is not timely made or a report required by section 225C.38, subsection 3, paragraph "a", contains false information.

3. If an application for a family support subsidy is denied 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.

88 Acts, ch 1122, §7

**225C.41 Appropriations.**

Family support subsidy payments shall be paid from funds appropriated by the general assembly for this purpose.

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 in the succeeding fiscal year.

88 Acts, ch 1122, §8; 91 Acts, ch 38, §4

**225C.42 Periodic evaluation of program.**

1. The department shall conduct a periodic evaluation of the family support subsidy program and shall submit the evaluation report with recommendations to the governor and general assembly.

2. The evaluation content shall include but is not limited to all of the following items:

*a.* A statement of the number of children and families served by the program during the period and the number remaining on the waiting list at the end of the period.

*b.* A description of the children and family needs to which payments were applied.

*c.* An analysis of the extent to which payments enabled children to remain in their homes. The analysis shall include but is not limited to all of the following items concerning children affected by the payments: the number and percentage of children who remained with their families; the number and percentage of children

who returned to their home from an out-of-home placement and the type of placement from which the children returned; and the number of children who received an out-of-home placement during the fiscal year and the type of placement.

*d.* An analysis of parent satisfaction with the program.

*e.* An analysis of efforts to encourage program participation by eligible families.

*f.* The results of a survey of families participating in the program in order to assess the adequacy of subsidy payment amounts and the degree of unmet need for services and supports.

3. The evaluation content may include any of the following items:

*a.* An overview of the reasons families voluntarily terminated participation in the family support subsidy program and the involvement of the department in offering suitable alternatives.

*b.* The geographic distribution of families receiving subsidy payments.

*c.* An overview of problems encountered by families in applying for the program, including obtaining documentation of eligibility.

88 Acts, ch 1122, §9; 91 Acts, ch 38, §5; 2004 Acts, ch 1116, §1, 2

**225C.43 and 225C.44** Reserved.

**225C.45 Public housing unit.**

1. The administrator may establish a public housing unit within a bureau of the division to apply for, receive, and administer federal assistance, grants, and other public or private funds for purposes related to providing housing.

2. In implementing the public housing unit, the division may do all of the following:

*a.* Prepare, implement, and operate housing projects and provide for the construction, improvement, extension, alteration, or repair of a housing project under the division's jurisdiction.

*b.* Develop and implement studies, conduct analyses, and engage in research concerning housing and housing needs. The information obtained from these activities shall be made available to the public and to the building, housing, and supply industries.

*c.* Cooperate with the Iowa finance authority and participate in any of the authority's programs. Use any funds obtained pursuant to subsection 1 to participate in the authority's programs. The division shall comply with rules adopted by the authority as the rules apply to the housing activities of the division.

3. In accepting contributions, grants, or other financial assistance from the federal government relating to a housing activity of the division, including construction, operation, or maintenance, or in managing a housing project or undertaking constructed or owned by the federal government, the division may do any of the following:

*a.* Comply with federally required conditions or enter into contracts or agreements as may be necessary, convenient, or desirable.

*b.* Take any other action necessary or desirable in order to secure the financial aid or cooperation of the

federal government.

c. Include in a contract with the federal government for financial assistance any provision which the federal government may require as a condition of the assistance that is consistent with the provisions of this section.

4. The division shall not proceed with a housing project pursuant to this section, unless both of the following conditions are met:

a. A study for a report which includes recommendations concerning the housing available within a community is publicly issued by the division. The study shall be included in the division's recommendations for a housing project.

b. The division's recommendations are approved by a majority of the city council or board of supervisors with jurisdiction over the geographic area affected by the recommendations.

5. Property acquired or held pursuant to this section is public property used for essential public purposes and is declared to be exempt from any tax or special assessment of the state or any state public body as defined in section 403A.2. In lieu of taxes on the property, the division may agree to make payments to the state or a state public body, including but not limited to the division, as the division finds necessary to maintain the purpose of providing low-cost housing in accordance with this section.

6. Any property owned or held by the division pursuant to this section is exempt from levy and sale by execution. An execution or other judicial process shall not be issued against the property and a judgment against the division shall not be a lien or charge against the property. However, the provisions of this subsection shall not apply to or limit the right of the federal government to pursue any remedies available under this section. The provisions of this subsection shall also not apply to or limit the right of an obligee to take either of the following actions:

a. Foreclose or otherwise enforce a mortgage or other security executed or issued pursuant to this section.

b. Pursue remedies for the enforcement of a pledge or lien on rents, fees, or revenues.

7. In any contract with the federal government to provide annual payments to the division, the division may obligate itself to convey to the federal government possession of or title to the housing project in the event of a substantial default as defined in the contract and with respect to the covenant or conditions to which the division is subject. The obligation shall be specifically enforceable and shall not constitute a mortgage. The contract may also provide that in the event of a conveyance, the federal government may complete, operate, manage, lease, convey, or otherwise deal with the housing project and funds in accordance with the terms of the contract. However, the contract shall require that, as soon as is practicable after the federal government is satisfied that all defaults with respect to the housing project are cured and the housing project will be operated in accordance with the terms of the contract, the federal government shall reconvey the housing project to the division.

8. The division shall not undertake a housing project pursuant to this section until a public hearing has been held. At the hearing, the division shall notify the public of the proposed project's name, location, number of living units proposed, and approximate cost. Notice of the public hearing shall be published at least once in a newspaper of general circulation at least fifteen days prior to the date set for the hearing.

92 Acts, ch 1128, § 2; 94 Acts, ch 1170, §21; 95 Acts, ch 82, §3

#### **225C.46 Personal assistance services program.**

1. As used in this section, unless the context otherwise requires:

a. (1) *"Disability"* means, with respect to an individual, a physical or mental impairment that substantially limits one or more of the major life activities of the individual, a record of physical or mental impairment that substantially limits one or more of the major life activities of the individual, or being regarded as an individual with a physical or mental impairment that substantially limits one or more of the major life activities of the individual.

(2) *"Disability"* does not include any of the following:

(a) Homosexuality or bisexuality.

(b) Transvestism, transsexualism, pedophilia, exhibitionism, voyeurism, gender identity disorders not resulting from physical impairments, or other sexual behavior disorders.

(c) Compulsive gambling, kleptomania, or pyromania.

(d) Psychoactive substance abuse disorders resulting from current illegal use of drugs.

(e) Alcoholism.

b. *"Major life activity"* includes functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, or working.

c. *"Personal assistance services"* means services performed by a person to assist an individual with a disability with tasks which that individual would typically do if the individual did not have a disability. The services are intended to enable an individual with a disability to live in the individual's home or community rather than in an institutional setting and may include but are not limited to any of the following:

(1) Dressing.

(2) Bathing.

(3) Access to and from bed or a wheelchair.

(4) Toilet assistance, including bowel, bladder, and catheter assistance.

(5) Eating and feeding.

(6) Cooking and housekeeping assistance.

(7) Employment support.

(8) Cognitive assistance with tasks such as handling money and scheduling.

(9) Fostering communication access through interpreting and reading services.

d. (1) *"Substantially limits"* means either of the following:

(a) Unable to perform a major life activity that the average person in the general population can perform.

(b) Significantly restricted as to the condition, manner, or duration under which an individual can perform a particular major life activity as compared to the condition, manner, or duration under which the average person in the general population can perform that same major life activity.

(2) The following factors may be considered in determining whether an individual is substantially limited in a major life activity:

(a) The nature and severity of the impairment.

(b) The duration or expected duration of the impairment.

(c) The permanent or long-term impact, or expected permanent or long-term impact of or resulting from the impairment.

2. Eligibility for the personal assistance services program shall be limited to individuals with a disability, who have Iowa or federal taxable income of less than forty thousand dollars, who are residents of this state, and who are at least eighteen years of age or are emancipated minors. For the purposes of this subsection, "*emancipated minor*" means a person under eighteen years of age who is married or who is living separate and apart from the person's parent, regardless of the duration of the separate residence, and is managing the person's own financial affairs regardless of the source or extent of the person's income.

3. An individual served under the personal assistance services program shall determine the components of the personal assistance services to be provided with the person who is providing the services to the individual. Based upon the components determined by the individual, the department shall develop a provider contract or other means of paying for services. The components may include but are not limited to all of the following:

a. Training of the person providing services.

b. Selection of the person providing services.

c. Management of the person providing services.

d. Performance standards for the person providing services.

e. Annual review or review upon demonstration of significant changes in the circumstances of the individual being provided with personal assistance services.

4. The department shall adopt rules providing for all of the following:

a. Coordination of personal assistance service activities and funding with other state and local agencies which provide services to individuals with disabilities or funding of such services.

b. The components of contracts between individuals with disabilities being provided personal assistance services and providers of personal assistance services.

c. Upon request of an individual with disabilities, provision of assistance in locating a provider of personal assistance services for the individual.

d. Upon request of an individual with disabilities, provision of technical assistance to the individual concerning the employment of a personal assistant or contracting for services with a personal assistance services provider.

e. Procedures for disbursement of funds. Funds for the purchase of personal assistance services shall be paid directly to individuals with disabilities pursuant to a contract or by other appropriate means of payment. The rules shall include provisions to track the use of the funds and to monitor contract compliance.

f. Implementation of the program in accordance with the funding appropriated for the program.

**225C.47 Comprehensive family support program.**

1. For the purposes of this section, unless the context otherwise requires:

*a. "Family"* means a group of interdependent persons living in the same household. A family consists of an individual with a disability and any of the following:

(1) The individual's parent.

(2) The individual's sibling.

(3) The individual's grandparent, aunt, or uncle.

(4) The individual's legal custodian.

(5) A person who is providing short-term foster care to the individual subject to a case permanency plan which provides for reunification between the individual and the individual's parent.

*"Family"* does not include a person who is employed to provide services to an individual with a disability in an out- of-home setting, including but not limited to a hospital, nursing facility, personal care home, board and care home, group foster care home, or other institutional setting.

*b. "Individual with a disability"* means an individual who is less than twenty-two years of age and meets the definition of developmental disability in 42 U.S.C. § 6001.

*c. "Services and support"* means services or other assistance intended to enable an individual with a disability to control the individual's environment, to remain living with the individual's family, to function more independently, and to increase the integration of the individual into the individual's community. Services and support may include but are not limited to funding for purchase of equipment, respite care, supplies, assistive technology, and payment of other costs attributable to the individual's disability which are identified by the individual's family.

2. A comprehensive family support program is created in the department of human services to provide a statewide system of services and support to eligible families. The program shall be implemented in a manner which enables a family member of an individual with a disability to identify the services and support needed to enable the individual to reside with the individual's family, to function more independently, and to increase the individual's integration into the community.

3. Eligibility for the comprehensive family support program is limited to families who meet all the following conditions:

*a.* The family resides in the state of Iowa.

*b.* The family includes an individual with a disability.

*c.* The family expresses an intent for the family member who is an individual with a disability to remain living in the family's home.

*d.* The family's taxable income is less than sixty thousand dollars in the most recently completed tax year.

4. A family may apply to the department for assistance under the comprehensive family support program.

The department shall determine eligibility for the program in accordance with the provisions of this section.

5. The department shall design the program in consultation with the personal assistance and 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:

*a.* (1) An application process incorporating the eligibility determination processes of other disability services programs to the extent possible.

(2) Eligible families maintain control of decisions which affect the families' children who are individuals with a disability.

*b.* (1) Existing local agencies are utilized to provide facilities and a single entry point for comprehensive family support program applicants.

(2) Services and support are provided in a timely manner and emergency access to needed services and support is provided.

*c.* Technical assistance is provided to service and support providers and users.

*d.* State, regional, and local media are utilized to publicize the family support program.

*e.* A process is available to appeal the department's decisions involving families which 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.

*f.* (1) Identification of the services and support and service provider components included in the comprehensive family support program.

(2) Upon request by a family member, provision of assistance in locating a service provider.

*g.* Identification of payment for services and support directly to families, by voucher, or by other appropriate means to maintain family control over decision making.

*h.* Implementation of the program in accordance with the funding appropriated for the program.

*i.* The utilization of a voucher system for payment provisions for the children-at-home component of the program under subsection 7.

6. Services and support provided under the comprehensive family support program shall not be used to supplant other services and support available to a family of an individual with disabilities but shall be used to meet family needs that would not be met without the program.

7. The comprehensive family support program shall include a children-at-home 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 in identifying the services and support to be provided to the family under the 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.

**225C.48 Personal assistance and family support services council.**

1. An eleven-member personal assistance and 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 consumers of personal services. Members shall serve for three-year staggered terms. A vacancy on the council shall be filled in the same manner as the original appointment. The members of the council shall be entitled to reimbursement of actual and necessary expenses incurred in the performance of their official duties. The council shall elect officers from among the council's members.

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 program created in section 225C.46 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 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 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 and the comprehensive family support program as approved service provisions under managed care.

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

*e.* Oversee statewide training of department 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.

**225C.49 Departmental duties concerning services to individuals with a disability.**

1. The department shall provide coordination of the programs administered by the department which serve individuals with a disability and the individuals' families, including but not limited to the following juvenile justice and child welfare services: family-centered and intensive family preservation services described under

section 232.102, decategorization of child welfare funding provided for under section 232.188, and foster care services paid under section 234.35, subsection 3. The department shall regularly review administrative rules associated with such programs and make recommendations to the council on human services, governor, and general assembly for revisions to remove barriers to the programs for individuals with a disability and the individuals' families including the following:

*a.* Eligibility prerequisites which require declaring the individual at risk of abuse, neglect, or out-of-home placement.

*b.* Time limits on services which restrict addressing ongoing needs of individuals with a disability and their families.

2. The department shall coordinate the department's programs and funding utilized by individuals with a disability and their families with other state and local programs and funding directed to individuals with a disability and their families.

3. In implementing the provisions of this section, the department shall do all of the following:

*a.* Compile information concerning services and other support available to individuals with a disability and their families. Make the information available to individuals with a disability and their families and department staff.

*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 develop plans and contracts under sections 225C.46 and 225C.47.

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

96 Acts, ch 1084, §7