

CHILD AND FAMILY SERVICES

234.1 Definitions.

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

1. "*Administrator*" means the administrator of the division.
2. "*Child*" means either a person less than eighteen years of age or a person eighteen or nineteen years of age who meets any of the following conditions:
 - a. Is in full-time attendance at an accredited school pursuing a course of study leading to a high school diploma.
 - b. Is attending an instructional program leading to a high school equivalency diploma.
 - c. Has been identified by the director of special education of the area education agency as a child requiring special education as defined in section 256B.2, subsection 1.

A person over eighteen years of age who has received a high school diploma or a high school equivalency diploma is not a child within the definition in this subsection.

3. "*Division*" or "*state division*" means that division of the department of human services to which the director has assigned responsibility for income and service programs.
4. "*Food programs*" means the food stamp and donated foods programs authorized by federal law under the United States department of agriculture.

[C71, 73, 75, 77, 79, 81, S81, § 234.1; 81 Acts, ch 7, § 11]

83 Acts, ch 96, § 160; 86 Acts, ch 1245, § 1419; 92 Acts, ch 1229, § 20; 93 Acts, ch 54, §3

234.2 Division created.

Within the state department of human services, there is hereby created a division of child and family services which shall be administered by the administrator of said division and such other officers and employees as may be hereafter provided.

[C71, 73, 75, 77, 79, 81, § 234.2]

234.3 to 234.5 Repealed by 67 Acts, ch 209, § 215.

234.6 Powers and duties of the administrator.

The administrator shall be vested with the authority to administer the family investment program, state supplementary assistance, food programs, child welfare, and emergency relief, family and adult service programs, and any other form of public welfare assistance and institutions that are placed under the administrator's administration. The administrator shall perform duties, formulate and adopt rules as may be necessary; shall outline policies, dictate procedure, and delegate such powers as may be necessary for competent and efficient administration. Subject to restrictions that may be imposed by the director of human services and the council on human services, the administrator may abolish, alter, consolidate, or establish subdivisions and may abolish or change offices previously created. The administrator may employ necessary personnel and fix their compensation; may allocate or reallocate functions and duties among any subdivisions

now existing or later established; and may adopt rules relating to the employment of personnel and the allocation of their functions and duties among the various subdivisions as competent and efficient administration may require.

The administrator shall:

1. Cooperate with the federal social security board created by Title VII of the Social Security Act [42 U.S.C. 901], enacted by the 74th Congress of the United States and approved August 14, 1935, or other agency of the federal government for public welfare assistance, in such reasonable manner as may be necessary to qualify for federal aid, including the making of such reports in such form and containing such information as the federal social security board, from time to time, may require, and to comply with such regulations as such federal social security board, from time to time, may find necessary to assure the correctness and verification of such reports.
2. Furnish information to acquaint the public generally with the operation of the acts under the jurisdiction of the administrator.
3. With the approval of the director of human services, the governor, the director of management, and the director of the department of administrative services, set up from the funds under the administrator's control and management an administrative fund and from the administrative fund pay the expenses of operating the division.
4. Notwithstanding any provisions to the contrary in chapter 239B relating to the consideration of income and resources of claimants for assistance, the administrator, with the consent and approval of the director of human services and the council on human services, shall make such rules as may be necessary to qualify for federal aid in the assistance programs administered by the administrator.
5. The department of human services shall have the power and authority to use the funds available to it, to purchase services of all kinds from public or private agencies to provide for the needs of children, including but not limited to psychiatric services, supervision, specialized group, foster homes and institutional care.
6. Have authority to use funds available to the department, subject to any limitations placed on the use thereof by the legislation appropriating the funds, to provide to or purchase, for families and individuals eligible therefor, services including but not limited to the following:
 - a. Child care for children or adult day services, in facilities which are licensed or are approved as meeting standards for licensure.
 - b. Foster care, including foster family care, group homes and institutions.
 - c. Intensive family preservation services and family-centered services, as defined in section 232.102, subsection 10, paragraph "b".
 - d. Family planning.
 - e. Protective services.
 - f. Services or support provided to a child with mental retardation or other developmental disability or to the child's family.
 - g. Transportation services.
 - h. Any services, not otherwise enumerated in this subsection, authorized by or pursuant to the United States

Social Security Act of 1934, as amended.

7. Administer the food programs authorized by federal law, and recommend rules necessary in the administration of those programs to the director for promulgation pursuant to chapter 17A.

8. Provide consulting and technical services to the director of the department of education, or the director's designee, upon request, relating to prekindergarten, kindergarten, and before and after school programming and facilities.

9. Recommend rules for their adoption by the council on human services for before and after school child care programs, conducted within and by or contracted for by school districts, that are appropriate for the ages of the children who receive services under the programs.

10. In determining the reimbursement rate for services purchased by the department of human services from a person or agency, the department shall not include private moneys contributed to the person or agency unless the moneys are contributed for services provided to a specific individual.

[C39, § 3661.007; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 234.6]

88 Acts, ch 1134, § 56; 89 Acts, ch 206, § 2; 92 Acts, ch 1229, § 2123; 93 Acts, ch 97, §28; 97 Acts, ch 41, § 32; 99 Acts, ch 111, §5, 7; 99 Acts, ch 192, §28; 2001 Acts, ch 64, §5; 2003 Acts, ch 145, §286

Footnotes

See § 13.6

234.7 Department duties.

The department of human services shall comply with the following requirement associated with child foster care licensees under chapter 237:

The department shall include a child's foster parent in, and provide timely notice of, planning and review activities associated with the child, including but not limited to permanency planning and placement review meetings, which shall include discussion of the child's rehabilitative treatment needs.

95 Acts, ch 182, §14

234.8 Fees for child welfare services.

The department of human services may charge a fee for child welfare services to a person liable for the cost of the services. The fee shall not exceed the reasonable cost of the services. The fee shall be based upon the person's ability to pay and consideration of the fee's impact upon the liable person's family and the goals identified in the case permanency plan. The department may assess the liable person for the fee and the means of recovery shall include a setoff against an amount owed by a state agency to the person assessed pursuant to section 8A.504. In addition the department may establish an administrative process to recover the assessment through automatic income withholding. The department shall adopt rules pursuant to chapter 17A to implement the provisions of this section. This section does not apply to court-ordered services provided to juveniles which are a charge upon the state pursuant to section 232.141 and services for which the department has established a support obligation pursuant to section 234.39.

92 Acts, ch 1229, § 24; 2003 Acts, ch 145, §216

234.9 County board of social welfare. Repealed by 93 Acts, ch 54, §12.

234.10 Compensation of county board members. Repealed by 93 Acts, ch 54, §12.

234.11 Duties of the county board. Repealed by 93 Acts, ch 54, §12. See §217.43.

234.12 Department to provide food programs.

The department of human services is authorized to enter into such agreements with agencies of the federal government as are necessary in order to make available to the people of this state any federal food programs which may, under federal laws and regulations, be implemented in this state. Each such program shall be implemented in every county in the state, or in each county where implementation is permitted by federal laws and regulations.

The provisions of the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, § 115, shall not apply to an applicant for or recipient of food stamp benefits in this state. However, the department of human services may apply contingent eligibility requirements as provided under state law and allowed under federal law.

Upon request by the department of human services, the department of inspections and appeals shall conduct investigations into possible fraudulent practices, as described in section 234.13, relating to food programs administered by the department of human services.

[C79, 81, § 234.12]

90 Acts, ch 1204, §48; 97 Acts, ch 41, § 1

234.12A Electronic benefits transfer program.

1. The department of human services may establish an electronic benefits transfer program utilizing electronic funds transfer systems. The program, if established, shall at a minimum provide for all of the following:

a. A retailer shall not be required to make cash disbursements or to provide, purchase, or upgrade electronic funds transfer system equipment as a condition of participation in the program.

b. A retailer providing electronic funds transfer system equipment for transactions pursuant to the program shall be reimbursed seven cents for each approved transaction pursuant to the program utilizing the retailer's equipment.

c. A retailer that provides electronic funds transfer system equipment for transactions pursuant to the program and who makes cash disbursements pursuant to the program utilizing the retailer's equipment shall be paid a fee of seven cents by the department for each cash disbursement transaction by the retailer.

2. A point-of-sale terminal which is used only for purchases from a retailer by electronic benefits transfer utilizing electronic funds transfer systems is not a satellite terminal as defined in section 527.2.

3. For the purposes of this section, "*retailer*" means a business authorized by the United States department of agriculture to accept food stamp benefits.

98 Acts, ch 1066, §1; 98 Acts, ch 1218, §75; 2001 Acts, ch 191, §39

234.13 Fraudulent practices relating to food programs.

For the purposes of this section, unless the context otherwise requires, "*benefit transfer instrument*" means a

food stamp coupon, authorization-to-purchase card, or electronic benefits transfer card. A person commits a fraudulent practice if that person does any of the following:

1. With intent to gain financial assistance to which that person is not entitled, knowingly makes or causes to be made a false statement or representation or knowingly fails to report to an employee of the department of human services any change in income, resources or other circumstances affecting that person's entitlement to such financial assistance.
2. As a beneficiary of the food programs, transfers any food stamp benefit transfer instrument to any other individual with intent that the benefit transfer instrument be used for the benefit of someone other than persons within the beneficiary's food stamp household as certified by the department of human services.
3. Knowingly acquires, uses or attempts to use any food stamp benefit transfer instrument which was not issued for the benefit of that person's food stamp household by the department of human services, or by an agency administering food programs in another state.
4. Acquires, alters, transfers, or redeems a food stamp benefit transfer instrument or possesses a benefit transfer instrument, knowing that the benefit transfer instrument has been received, transferred, or used in violation of this section or the provisions of the federal food stamp program under 7 U.S.C. ch. 51 or the federal regulations issued pursuant to that chapter.

[C79, 81, § 234.13; 82 Acts, ch 1260, § 120]

96 Acts, ch 1106, §15

234.14 Federal grants.

The state treasurer is hereby authorized to receive such federal funds as may be made available for carrying out any of the activities and functions of the state division, and all such funds are hereby appropriated for expenditure upon authorization of the administrator.

[C39, § 3661.015; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 234.14]

234.15 to 234.17 Repealed by 80 Acts, ch 1050, § 40. See § 175.28175.30.

234.18 Repealed by 80 Acts, ch 1050, § 40. See § 175.6.

234.19 Repealed by 80 Acts, ch 1050, § 40.

234.20 Repealed by 80 Acts, ch 1050, § 40. See § 175.32.

234.21 Services to be offered.

The state division may offer, provide, or purchase family planning and birth control services to every person who is an eligible applicant or recipient of service or any financial assistance from the department of human services, or who is receiving federal supplementary security income as defined in section 249.1.

[C66, 71, 73, 75, 77, 79, 81, § 234.21]

234.22 Extent of services.

Such family planning and birth control services may include interview with trained personnel; distribution of literature; referral to a licensed physician for consultation, examination, tests, medical treatment and

prescription; and, to the extent so prescribed, the distribution of rhythm charts, drugs, medical preparations, contraceptive devices and similar products.

[C66, 71, 73, 75, 77, 79, 81, § 234.22]

234.23 Charge for services.

In making provision for and offering such services, the state division may charge those persons to whom family planning and birth control services are rendered a fee sufficient to reimburse the state division all or any portion of the costs of the services rendered.

[C66, 71, 73, 75, 77, 79, 81, § 234.23]

234.24 Services may be refused.

The refusal of any person to accept family planning and birth control services shall in no way affect the right of such person to receive public assistance or any other public benefit and every person to whom such services are offered shall be so advised initially both orally and in writing. Employees engaged in the administration of this section shall recognize that the right to make decisions concerning family planning and birth control is a fundamental personal right of the individual and nothing in this division shall in any way abridge such individual right, nor shall any individual be required to state the individual's reason for refusing the offer of family planning and birth control services.

[C66, 71, 73, 75, 77, 79, 81, § 234.24]

234.25 Language to be used.

In all cases where the recipient does not speak or read the English language, the services shall not be given unless the interviews shall be conducted in, and all literature shall be written in, a language which the recipient understands.

[C66, 71, 73, 75, 77, 79, 81, § 234.25]

234.26 Construction.

This division shall be liberally construed to protect the rights of all individuals to pursue their religious beliefs and to follow the dictates of their own consciences, and to prevent the imposition upon any individual of practices offensive to the individual's moral standards.

[C66, 71, 73, 75, 77, 79, 81, § 234.26]

234.27 Policy.

The general assembly hereby finds, determines, and declares that this division is necessary for the immediate preservation of the public peace, health, and safety.

[C66, 71, 73, 75, 77, 79, 81, § 234.27]

234.28 Obscenity laws not applicable.

The provisions of chapter 728 do not apply to services provided under the terms of this division.

[C66, 71, 73, 75, 77, 79, 81, § 234.28]

234.29 to 234.34 Reserved.

234.35 When state to pay foster care costs.

1. The department of human services is responsible for paying the cost of foster care for a child, according to rates established pursuant to section 234.38, under any of the following circumstances:

- a.* When a court has committed the child to the director of human services or the director's designee.
- b.* When a court has transferred legal custody of the child to the department of human services.
- c.* When the department has agreed to provide foster care services for the child for a period of not more than ninety days on the basis of a signed placement agreement between the department and the child's parent or guardian.
- d.* When the child has been placed in emergency care for a period of not more than thirty days upon approval of the director or the director's designee.
- e.* When a court has entered an order transferring the legal custody of the child to a foster care placement pursuant to section 232.52, subsection 2, paragraph "d", or section 232.102, subsection 1. However, payment for a group foster care placement shall be limited to those placements which conform to a service area group foster care plan established pursuant to section 232.143.
- f.* When the department has agreed to provide foster care services for a child who is eighteen years of age or older on the basis of a signed placement agreement between the department and the child or the person acting on behalf of the child.
- g.* When the department has agreed to provide foster care services for the child on the basis of a signed placement agreement initiated before July 1, 1992, between the department and the child's parent or guardian.
- h.* When the child is placed in shelter care pursuant to section 232.20, subsection 1, or section 232.21.
- i.* When the court has entered an order in a voluntary foster care placement proceeding pursuant to section 232.182, subsection 5, placing the child into foster care.

2. Except as provided under section 234.38 for direct payment of foster parents, payment for foster care costs shall be limited to foster care providers with whom the department has a contract in force.

3. Payment for foster care services provided to a child who is eighteen years of age or older shall be limited to the following:

- a.* For a child who is eighteen years of age, family foster care or independent living arrangements.
- b.* For a child who is nineteen years of age, independent living arrangements.
- c.* For a child who is at imminent risk of becoming homeless or failing to graduate from high school or to obtain a graduate equivalency diploma, if the services are in the child's best interests, funding is available for the services, and an appropriate alternative service is unavailable.

4. The department shall report annually to the governor and general assembly by January 1 on the numbers of children for whom the state paid for independent living services during the immediately preceding fiscal year. The report shall detail the number of children, by county, who received such services, were discharged from such services, the voluntary or involuntary status of such services, and the reasons for discharge. The

department shall assess the report data as part of any evaluation of independent living services or consideration for improving the services.

[C75, 77, 79, 81, § 234.35]

90 Acts, ch 1270, § 42, 43; 92 Acts, ch 1229, § 25; 93 Acts, ch 172, §37, 56; 2003 Acts, ch 117, §9; 2003 Acts, ch 175, §37; 2004 Acts, ch 1116, §15

Footnotes

See Iowa Acts for special provisions relating to foster care payments in a given fiscal year

234.36 When county to pay foster care costs. Repealed by 90 Acts, ch 1270, § 50.

234.37 Department may establish accounts for certain children.

The department of human services is authorized to establish an account in the name of any child committed to the director of human services or the director's designee, or whose legal custody has been transferred to the department, or who is voluntarily placed in foster care pursuant to section 234.35. Any money which the child receives from the United States government or any private source shall be placed in the child's account, unless a guardian of the child's property has been appointed and demands the money, in which case it shall be paid to the guardian. The account shall be maintained by the department as trustee for the child in an interest-bearing account at a reputable bank or savings and loan association, except that if the child is residing at an institution administered by the department a limited amount of the child's funds may be maintained in a separate account, which need not be interest bearing, in the child's name at the institution. Any money held in an account in the child's name or in trust for the child under this section may be used, at the discretion of the department and subject to restrictions lawfully imposed by the United States government or other source from which the child receives the funds, for the purchase of personal incidentals, desires and comforts of the child. All of the money held for a child by the department under this section and not used in the child's behalf as authorized by law shall be promptly paid to the child or the child's parent or legal guardian upon termination of the commitment of the child to the director or the director's designee, or upon transfer or cessation of legal custody of the child by the department.

[C75, 77, 79, 81, § 234.37]

234.38 Foster care reimbursement rates.

The department of human services shall make reimbursement payments directly to foster parents for services provided to children pursuant to section 234.6, subsection 6, paragraph "b", or section 234.35. In any fiscal year, the reimbursement rate shall be based upon sixty-five percent of the United States department of agriculture estimate of the cost to raise a child in the calendar year immediately preceding the fiscal year. The department may pay an additional stipend for a child with special needs.

[C75, 77, 79, 81, § 234.38]

90 Acts, ch 1270, § 44; 92 Acts, ch 1229, § 26; 92 Acts, ch 1247, § 46; 92 Acts, 1st Ex, ch 1004, § 4

234.39 Responsibility for cost of services.

It is the intent of this chapter that an individual receiving foster care services and the individual's parents or guardians shall have primary responsibility for paying the cost of the care and services. The support obligation established and adopted under this section shall be consistent with the limitations on legal liability

established under sections 222.78 and 230.15, and by any other statute limiting legal responsibility for support which may be imposed on a person for the cost of care and services provided by the department. The department shall notify an individual's parents or guardians, at the time of the placement of an individual in foster care, of the responsibility for paying the cost of care and services. Support obligations shall be established as follows:

1. For an individual to whom section 234.35, subsection 1, is applicable, a dispositional order of the juvenile court requiring the provision of foster care, or an administrative order entered pursuant to chapter 252C, or any order establishing paternity and support for a child in foster care, shall establish, after notice and a reasonable opportunity to be heard is provided to a parent or guardian, the amount of the parent's or guardian's support obligation for the cost of foster care provided by the department. The amount of the parent's or guardian's support obligation and the amount of support debt accrued and accruing shall be established in accordance with the child support guidelines prescribed under section 598.21, subsection 4. However, the court, or the department of human services in establishing support by administrative order, may deviate from the prescribed obligation after considering a recommendation by the department for expenses related to goals and objectives of a case permanency plan as defined under section 237.15, and upon written findings of fact which specify the reason for deviation and the prescribed guidelines amount. Any order for support shall direct the payment of the support obligation to the collection services center for the use of the department's foster care recovery unit. The order shall be filed with the clerk of the district court in which the responsible parent or guardian resides and has the same force and effect as a judgment when entered in the judgment docket and lien index. The collection services center shall disburse the payments pursuant to the order and record the disbursements. If payments are not made as ordered, the child support recovery unit may certify a default to the court and the court may, on its own motion, proceed under section 598.22 or 598.23 or the child support recovery unit may enforce the judgment as allowed by law. An order entered under this subsection may be modified only in accordance with the guidelines prescribed under section 598.21, subsection 8, or under chapter 252H.

2. For an individual who is served by the department of human services under section 234.35, and is not subject to a dispositional order of the juvenile court requiring the provision of foster care, the department shall determine the obligation of the individual's parent or guardian pursuant to chapter 252C and in accordance with the child support guidelines prescribed under section 598.21, subsection 4. However, the department may adjust the prescribed obligation for expenses related to goals and objectives of a case permanency plan as defined under section 237.15. An obligation determined under this subsection may be modified only in accordance with conditions under section 598.21, subsection 8, or under chapter 252H.

3. A person entitled to periodic support payments pursuant to an order or judgment entered in any action for support, who also is or has a child receiving foster care services, is deemed to have assigned to the department current and accruing support payments attributable to the child effective as of the date the child enters foster care placement, to the extent of expenditure of foster care funds. The department shall notify the clerk of the district court when a child entitled to support payments is receiving foster care services pursuant to chapter 234. Upon notification by the department that a child entitled to periodic support payments is receiving foster care services, the clerk of the district court shall make a notation of the automatic assignment in the judgment docket and lien index. The notation constitutes constructive notice of assignment. The clerk of court shall furnish the department with copies of all orders and decrees awarding support when the child is receiving foster care services. At the time the child ceases to receive foster care services, the assignment of support shall be automatically terminated. Unpaid support accrued under the assignment of support rights during the time that the child was in foster care remains due to the department up to the amount of unreimbursed foster care funds expended. The department shall notify the clerk of court of the automatic termination of the assignment. Unless otherwise specified in the support order, an equal and proportionate share of any child support awarded shall be presumed to be payable on behalf of each child subject to the order or judgment for purposes of an assignment under this section.

4. The support debt for the costs of services, for which a support obligation is established pursuant to this

section, which accrues prior to the establishment of the support debt, shall be collected, at a maximum, in the amount which is the amount of accrued support debt for the three months preceding the earlier of the following:

a. The provision by the child support recovery unit of the initial notice to the parent or guardian of the amount of the support obligation.

b. The date that the written request for a court hearing is received by the child support recovery unit as provided in section 252C.3 or 252F.3.

5. If the department makes a subsidized guardianship payment for a child, the payment shall be considered a foster care payment for purposes of child support recovery. All provisions of this and other sections, and of rules and orders adopted or entered pursuant to those sections, including for the establishment of a paternity or support order, for the amount of a support obligation, for the modification or adjustment of a support obligation, for the assignment of support, and for enforcement shall apply as if the child were receiving foster care services, or were in foster care placement, or as if foster care funds were being expended for the child. This subsection shall apply regardless of the date of placement in foster care or subsidized guardianship or the date of entry of an order, and foster care and subsidized guardianship shall be considered the same for purposes of child support recovery.

[C75, 77, 79, 81, § 234.39]

83 Acts, ch 96, § 160; 83 Acts, ch 153, § 3; 89 Acts, ch 166, § 1; 90 Acts, ch 1270, § 45; 92 Acts, ch 1195, § 303, 304; 92 Acts, ch 1229, § 27; 94 Acts, ch 1171, §8; 95 Acts, ch 52, § 1; 96 Acts, ch 1213, § 36, 37; 97 Acts, ch 175, § 227; 99 Acts, ch 127, §1

234.40 Corporal punishment.

The department of human services shall adopt rules prohibiting corporal punishment of foster children by foster parents licensed by the department. The rules shall allow foster parents to use reasonable physical force to restrain a foster child in order to prevent injury to the foster child, injury to others, the destruction of property, or extremely disruptive behavior. For the purposes of this section, "*corporal punishment*" means the intentional physical punishment of a foster child. A foster parent's physical contact with the body of a foster child shall not be considered corporal punishment if the contact is reasonable and necessary under the circumstances and is not designed or intended to cause pain or if the foster parent uses reasonable force, as defined under section 704.1.

[C79, 81, § 234.40]

92 Acts, ch 1241, § 71

234.41 Tort actions.

A foster parent licensed by the department of human services stands in the same relationship to the foster parent's minor foster child, for purposes of tort actions by or on behalf of the foster child against the foster parent, as a biological parent to the biological parent's minor child who resides at home. This section does not apply to a foster parent whose malicious, willful and wanton conduct causes injury or damage to a foster child or exposes the foster child to a danger caused by violation of a statute or the rules of the department of human services.

[C79, 81, § 234.41]

94 Acts, ch 1046, §4

234.42 Foster care review committees confidentiality. Repealed effective July 1, 1994, by 93 Acts, ch 172, §48, 56.

234.43 and 234.44 Reserved.

234.45 Iowa marriage initiative grant fund.

1. An Iowa marriage initiative grant fund is established in the state treasury under the authority of the department of human services. The grant fund shall consist of moneys appropriated to the fund and notwithstanding section 8.33 such moneys shall not revert to the fund from which appropriated at the close of the fiscal year but shall remain in the Iowa marriage initiative grant fund. Moneys credited to the fund shall be used as directed in appropriations made by the general assembly for funding of services to support marriage and to encourage the formation and maintenance of two-parent families that are secure and nurturing.

2. It is the intent of the general assembly to credit to the Iowa marriage initiative grant fund, federal moneys provided to the state for the express purpose of supporting marriage or two-parent families.

2001 Acts, ch 191, §37