

SENIOR LIVING PROGRAM

249H.1 Title.

This chapter shall be known and may be cited as the "*Iowa Senior Living Program Act*".

2000 Acts, ch 1004, §1, 22

249H.2 Legislative findings goal.

1. The general assembly finds that:

a. The preservation, improvement, and coordination of the health care infrastructure of Iowa are critical to the health and safety of Iowans.

b. An increasing number of seniors and persons with disabilities in the state requires long-term care services provided outside of a medical institution.

c. A full array of long-term care services is necessary to provide cost-effective and appropriate services to the varied population of health care consumers.

d. The supported development of long-term care alternatives, including assisted-living facility services, adult day services, and home and community-based services, is critical in areas of the state where such alternatives otherwise are not likely to be developed.

e. Cost containment in the delivery of health care is necessary to improve services and access for all Iowans.

f. Grants are necessary to cover the expenditures related to the development of alternative health care services. Development of these alternatives will improve access to and delivery of long-term care services to underserved individuals or in underserved areas, which will in turn contain or reduce the cost and improve the quality of health care services.

g. A continuing source of funding is necessary to enhance the state's ability to meet the rising demand of seniors with low and moderate incomes in obtaining an appropriate variety of long-term care services.

2. The goal of this program is to create a comprehensive long-term care system that is consumer-directed, provides a balance between the alternatives of institutionally and noninstitutionally provided services, and contributes to the quality of the lives of Iowans.

2000 Acts, ch 1004, §2, 22; 2000 Acts, ch 1232, § 59; 2001 Acts, ch 64, §8

249H.3 Definitions.

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

1. "*Affordable*" means rates for payment of services which do not exceed the rates established for providers of medical and health services under the medical assistance program with eligibility for an individual equal to the eligibility for medical assistance pursuant to section 249A.3. In relation to services provided by a provider of services under a home and community-based services waiver, "*affordable*" means that the total monthly cost of the services provided under the home and community-based services waiver does not exceed the cost for that level of care as established by rule by the department of human services, pursuant to chapter 17A, in consultation with the department of elder affairs.

2. *"Assisted living"* means assisted living as defined in section 231C.2.
3. *"Case mix reimbursement"* means a reimbursement methodology that recognizes the acuity and need level of the residents of a nursing facility.
4. *"Long-term care alternatives"* means those services specified as services under the medical assistance home and community-based services waiver for elder persons or adults with disabilities, elder group homes certified under chapter 231B, assisted-living programs certified under chapter 231C, and the PACE program.
5. *"Long-term care provider"* means a provider of services through long-term care alternatives.
6. *"Long-term care service development"* means any of the following:
 - a. The remodeling of existing space and, if necessary, the construction of additional space required to accommodate development of long-term care alternatives, excluding the development of assisted-living programs or elder group home alternatives.
 - b. New construction for long-term care alternatives, excluding new construction of assisted-living programs or elder group homes, if the senior living coordinating unit determines that new construction is more cost-effective than the conversion of existing space.
7. *"Nursing facility"* means a licensed nursing facility as defined in section 135C.1 or a licensed hospital as defined in section 135B.1, a distinct part of which provides long-term care nursing facility beds.
8. *"Nursing facility conversion"* means any of the following:
 - a. The remodeling of nursing facility space existing on July 1, 1999, and certified for medical assistance nursing facility reimbursement and, if necessary, the construction of additional space required to accommodate an assisted-living program.
 - b. New construction of an assisted-living program if existing nursing facility beds are no longer licensed and the senior living coordinating unit determines that new construction is more cost-effective than the conversion of existing space.
9. *"PACE program"* means a program of all-inclusive care for the elderly established pursuant to 42 U.S.C. § 1396(u)(4) that provides delivery of comprehensive health and social services to seniors by integrating acute and long-term care services, and that is operated by a public, private, nonprofit, or proprietary entity.
"Pre-PACE program" means a PACE program in the initial start-up phase that provides the same scope of services as a PACE program.
10. *"Persons with disabilities"* means individuals eighteen years of age or older with disabilities as disability is defined in section 225B.2.
11. *"Senior"* means elder as defined in section 231.4 and as defined under the PACE program pursuant to 42 U.S.C. § 1396(u)(4).
12. *"Senior living coordinating unit"* means the senior living coordinating unit created within the department of elder affairs pursuant to section 231.58, or its designee.
13. *"Senior living program"* means the senior living program created in this chapter to provide for long-term care alternatives, long-term care service development, and nursing facility conversion.

249H.4 Senior living trust fund created appropriations.

1. A senior living trust fund is created in the state treasury under the authority of the department of human services. Moneys received through intergovernmental agreements for the senior living program and moneys received from sources, including grants, contributions, and participant payments, shall be deposited in the fund.
2. The department of human services, upon receipt of federal revenue on or after October 1, 1999, from public nursing facilities participating in the medical assistance program, shall deposit the federal revenue received in the trust fund, less a sum of five thousand dollars as an administration fee per participating public nursing facility.
3. Moneys deposited in the trust fund shall be used only for the purposes of the senior living program as specified in this chapter.
4. The trust fund shall be operated in accordance with the guidelines of the centers for Medicare and Medicaid services of the United States department of health and human services. The trust fund shall be separate from the general fund of the state and shall not be considered part of the general fund of the state. The moneys in the trust fund shall not be considered revenue of the state, but rather shall be funds of the senior living program. The moneys deposited in the trust fund are not subject to section 8.33 and shall not be transferred, used, obligated, appropriated, or otherwise encumbered, except to provide for the purposes of this chapter. Moneys in the trust fund may be used for cash flow purposes during a fiscal year provided that any moneys so allocated are returned to the trust fund by the end of that fiscal year. Notwithstanding section 12C.7, subsection 2, interest or earnings on moneys deposited in the trust fund shall be credited to the trust fund.
5. The department of human services shall adopt rules pursuant to chapter 17A to administer the trust fund and to establish procedures for participation by public nursing facilities in the intergovernmental transfer of funds to the senior living trust fund.
6. The treasurer of state shall provide a quarterly report of trust fund activities and balances to the senior living coordinating unit.

2000 Acts, ch 1004, §4, 22, 23; 2000 Acts, ch 1232, §88, 95; 2002 Acts, ch 1050, § 26; 2002 Acts, 2nd Ex, ch 1001, §30, 52

249H.4A Pending senior living trust fund.

A pending senior living trust fund is created in the state treasury under the authority of the department of human services. Moneys received through intergovernmental agreements for the senior living program but not yet available for appropriation are to be deposited into this fund. When the moneys are determined to be available for appropriation, they shall be transferred to the senior living trust fund established in section 249H.4. Moneys in the fund may be used for cash flow purposes during the fiscal year provided that any moneys so allocated are returned to the fund by the end of that fiscal year.

2002 Acts, 2nd Ex, ch 1001, §31, 52

249H.5 Allocations senior living trust fund.

1. Moneys deposited in the senior living trust fund created in section 249H.4 shall be used only as provided in appropriations from the trust fund to the department of human services and the department of elder affairs, and for purposes, including the awarding of grants, as specified in this chapter.

2. Moneys in the trust fund are allocated, subject to their appropriation by the general assembly, as follows:

a. To the department of human services, a maximum of eighty million dollars for the fiscal period beginning July 1, 2000, and ending on or before June 30, 2005, to be used for the conversion of existing nursing facility space and development of long-term care alternatives.

b. To the department of elder affairs, an amount necessary, annually, for expenses incurred in implementation and administration of the long-term care alternatives programs and for delivery of long-term care services to seniors with low or moderate incomes.

c. To the department of human services, an amount necessary, annually, for all of the following:

(1) Expenses incurred in implementation of the senior living program.

(2) Expenses incurred in administration of medical assistance home and community-based services waivers and the PACE program due to implementation of the senior living trust fund.

(3) Expenses incurred due to increased service delivery provided under medical assistance home and community-based services waivers as a result of nursing facility conversions and long-term care service development, for the fiscal period beginning July 1, 2000, and ending on or before June 30, 2005.

(4) Expenses incurred in program administration related to implementation of nursing facility case mix reimbursement under the medical assistance program.

d. To the department of human services, an amount necessary to provide funding for nursing facility provider reimbursements, using the percentile-based reimbursement system, and to provide funding for the transition to a case-mix reimbursement system. Funding shall be provided under this section for the percentile-based reimbursement system until such time as the case-mix reimbursement system is fully implemented.

e. To the department of human services an amount necessary, annually, for additional expenses incurred relative to implementation of the senior living program in assisting home and community-based services waiver consumers with rent expenses pursuant to the state supplementary assistance program.

3. Any funds remaining after disbursement of moneys under subsection 2 shall be invested with the interest earned to be available in subsequent fiscal years for the purposes provided in subsection 2, paragraph "b", and subsection 2, paragraph "c", subparagraphs (1) and (2).

2000 Acts, ch 1004, §5, 22; 2004 Acts, ch 1086, §50, 51

249H.6 Nursing facility conversion and long-term care services development grants.

1. The department of human services, at the direction of the senior living coordinating unit, may use moneys appropriated to the department from the senior living trust fund to award grants to any of the following:

a. A licensed nursing facility that has been an approved provider under the medical assistance program for the two-year period prior to application for the grant. The grant awarded may be used to convert all or a portion of the licensed nursing facility to a certified assisted-living program and may be used for capital or one-time expenditures, including but not limited to start-up expenses, training expenses, and operating losses for the first year of operation following conversion associated with the nursing facility conversion.

b. A long-term care provider or a licensed nursing facility that has been an approved provider under the medical assistance program for the two-year period prior to application for the grant or a provider that will meet applicable medical assistance provider requirements as specified in subsection 2, paragraph "c" or "d".

The grant awarded may be used for capital or one-time expenditures, including but not limited to start-up expenses, training expenses, and operating losses for the first year of operation for long-term care service development.

2. A grant shall be awarded only to an applicant who meets all of the following criteria, as applicable to the type of grant:

a. The applicant is a long-term care provider or a nursing facility that is located in an area determined by the senior living coordinating unit to be underserved with respect to a particular long-term care alternative service, and that has demonstrated the ability or potential to provide quality long-term care alternative services.

b. The applicant is able to provide a minimum matching contribution of twenty percent of the total cost of any conversion, remodeling, or construction.

c. The applicant is applying for a nursing facility conversion grant and is able to demonstrate all of the following:

(1) Conversion of the nursing facility or a distinct portion of the nursing facility to an assisted-living program is projected to offer efficient and economical care to individuals requiring long-term care services in the service area.

(2) Assisted-living services are otherwise not likely to be available in the area for individuals eligible for services under the medical assistance program.

(3) The resulting reduction in the availability of nursing facility services is not projected to cause undue hardship on those individuals requiring nursing facility services for a period of at least ten years.

(4) Public support following a community-based assessment.

(5) Conversion of the nursing facility is projected to result in a lower per client reimbursement cost to the grant applicant under the medical assistance program.

d. The applicant is applying for a long-term care service development grant and is able to demonstrate all of the following:

(1) Long-term care service development is projected to offer efficient and economical care to individuals requiring long-term care services in the service area.

(2) The proposed long-term care alternative is otherwise not likely to be available in the area for individuals eligible for services under the medical assistance program.

(3) Public support following a community-based assessment.

e. The applicant agrees to do all of the following as applicable to the type of grant:

(1) Participate and maintain a minimum medical assistance client base participation rate of forty percent, subject to the demand for participation by individuals eligible for medical assistance.

(2) Provide a service delivery package that is affordable for those individuals eligible for services under the medical assistance home and community-based services waiver program.

(3) Provide a refund to the senior living trust fund, on an amortized basis, in the amount of the grant, if the

applicant or the applicant's successor in interest ceases to operate an affordable long-term care alternative within the first ten-year period of operation following the awarding of the grant or if the applicant or the applicant's successor in interest fails to maintain a participation rate of forty percent in accordance with subparagraph (1).

3. The department of human services shall adopt rules in consultation with the senior living coordinating unit, pursuant to chapter 17A, to provide all of the following:

a. An application process and eligibility criteria for the awarding of grants. The eligibility criteria shall include but are not limited to the applicant's demonstration of an affordable service package, the applicant's use of the funds for allowable costs, and the applicant's ability to refund the funds if required under subsection 2, paragraph "e", subparagraph (3). The primary eligibility criterion used shall be the applicant's potential impact on the overall goal of moving toward a balanced, comprehensive, affordable, high-quality, long-term care system.

b. Criteria to be utilized in determining the amount of the grant awarded.

c. Weighted criteria to be utilized in prioritizing the awarding of grants to individual grantees during a grant cycle. Greater weight shall be given to the applicant's demonstration of potential reduction of nursing facility beds, the applicant's ability to meet demonstrated community need, and the established history of the applicant in providing quality long-term care services.

d. Policies and procedures for certification of the matching funds required of applicants under subsection 2, paragraph "b".

e. Other procedures the department of human services deems necessary for the proper administration of this section, including but not limited to the submission of progress reports on a bimonthly basis to the senior living coordinating unit.

4. The department of human services shall adopt rules to ensure that a nursing facility that receives a nursing facility conversion grant allocates costs in an equitable manner.

5. In addition to the types of grants described in subsection 1, the department of human services, at the direction of the senior living coordinating unit, may also use moneys appropriated to the department from the senior living trust fund to award grants, of not more than one hundred thousand dollars per grant, to licensed nursing facilities that are awarded nursing facility conversion grants and agree, as part of the nursing facility conversion, to also provide adult day services, child care for children with special needs, safe shelter for victims of dependent adult abuse, or respite care.

6. The department of human services shall establish a calendar for receiving and evaluating applications and for awarding of grants.

a. The department of human services shall develop a cost report to be completed by a grantee which includes, but is not limited to, revenue, costs, loans undertaken by the grantee, fixed assets of the grantee, a balance sheet, and a profit and loss statement.

b. Grantees shall submit, annually, completed cost reports to the department of human services regarding the project for a period of ten years following the date of initial operation of the grantee's long-term care alternative.

8. The department of human services, in consultation with the department of elder affairs, shall provide annual reports to the governor and the general assembly concerning grants awarded. The annual report shall include the total number of applicants and approved applicants, an overview of the various grants awarded,

and detailed reports of the cost of each project funded by a grant and information submitted by the approved applicant.

9. For the purpose of this section, "*underserved*" means areas in which four and four-tenths percent of the number of individuals sixty-five years of age and older is not greater than the number of currently licensed nursing facility beds and certified assisted-living units. In addition, the department, in determining if an area is underserved, may consider additional information gathered through the department's own research or submitted by an applicant, including but not limited to any of the following:

a. Availability of and access to long-term care alternatives relative to individuals eligible for medical assistance.

b. The current number of seniors and persons with disabilities and the projected number of these individuals.

c. The current number of seniors and persons with disabilities requiring professional nursing care and the projected number of these individuals.

d. The current availability of long-term care alternatives and any known changes in the availability of such alternatives.

10. This section does not create an entitlement to any funds available for grants under this section, and the department of human services may only award grants to the extent funds are available and within its discretion, to the extent applications are approved.

11. In addition to any other remedies provided by law, the department of human services may recoup any grant funding previously awarded and disbursed to a grantee or the grantee's successor in interest and may reduce the amount of any grant awarded, but not yet disbursed, to a grantee or the grantee's successor in interest, by the amount of any refund owed by a grantee or the grantee's successor in interest pursuant to subsection 2, paragraph "*e*", subparagraph (3).

12. The senior living coordinating unit shall review projects that receive grants under this section to ensure that the goal to provide alternatives to nursing facility care is being met and that an adequate number of nursing facility services remains to meet the needs of Iowans.

2000 Acts, ch 1004, §6, 22; 2000 Acts, ch 1232, §61; 2001 Acts, ch 64, §9; 2001 Acts, ch 192, §7

Footnotes

For future repeal of this section, see § 249H.11

Certification of
programs established through nursing facility conversion
grants; 2004 Acts, ch 1175, §167

249H.7 Home and community-based services for seniors.

1. Beginning October 1, 2000, the department of elder affairs, in consultation with the senior living coordinating unit, shall use funds appropriated from the senior living trust fund for activities related to the design, maintenance, or expansion of home and community-based services for seniors, including but not limited to adult day services, personal care, respite, homemaker, chore, and transportation services designed

to promote the independence of and to delay the use of institutional care by seniors with low and moderate incomes. At any time that moneys are appropriated, the department of elder affairs, in consultation with the senior living coordinating unit, shall disburse the funds to the area agencies on aging.

2. The department of elder affairs shall adopt rules, in consultation with the senior living coordinating unit and the area agencies on aging, pursuant to chapter 17A, to provide all of the following:

a. (1) The criteria and process for disbursement of funds, appropriated in accordance with subsection 1, to area agencies on aging.

(2) The criteria shall include, at a minimum, all of the following:

(a) A distribution formula that triple weights all of the following:

(i) Individuals seventy-five years of age and older.

(ii) Individuals aged sixty and older who are members of a racial minority.

(iii) Individuals sixty years of age and older who reside in rural areas as defined in the federal Older Americans Act.

(iv) Individuals who are sixty years of age and older who have incomes at or below the poverty level as defined in the federal Older Americans Act.

(b) A distribution formula that single weights individuals sixty years of age and older who do not meet the criteria specified in subparagraph subdivision (a).

b. The criteria for long-term care providers to receive funding as subcontractors of the area agencies on aging.

c. Other procedures the department of elder affairs deems necessary for the proper administration of this section, including but not limited to the submission of progress reports, on a bimonthly basis, to the senior living coordinating unit.

3. This section does not create an entitlement to any funds available for disbursement under this section and the department of elder affairs may only disburse moneys to the extent funds are available and, within its discretion, to the extent requests for funding are approved.

4. Long-term care providers that receive funding under this section shall submit annual reports to the appropriate area agency on aging. The department of elder affairs shall develop the report to be submitted, which shall include, but is not limited to, units of service provided, the number of service recipients, costs, and the number of units of service identified as necessitated but not provided.

5. The department of elder affairs, in cooperation with the department of human services, shall provide annual reports to the governor and the general assembly concerning the impact of moneys disbursed under this section on the availability of long-term care services in Iowa. The reports shall include the types of services funded, the outcome of those services, and the number of individuals receiving those services.

2000 Acts, ch 1004, §7, 22; 2001 Acts, ch 64, §10

249H.8 PACE and pre-PACE programs.

For the purposes of this chapter, all of the following apply to a PACE program:

1. A person operating a PACE program shall have a PACE program agreement with the centers for Medicare and Medicaid services of the United States department of health and human services, shall enter into a contract with the department of human services, and shall comply with 42 U.S.C. § 1396(u)(4) and all regulations promulgated pursuant to that section.
2. Services provided under a PACE or pre-PACE program shall be provided on a capitated basis.
3. A pre-PACE program may contract with the department of human services to provide services to individuals eligible for medical assistance, on a capitated basis, for a limited scope of the PACE service package through a prepaid health plan agreement, with the remaining services reimbursed directly to the service providers by the medical assistance or federal Medicare programs.
4. PACE and pre-PACE programs are not subject to regulation under chapter 514B.
5. A PACE or pre-PACE program shall, at the time of entering into the initial contract and of renewal of a contract with the department of human services, demonstrate cash reserves in an amount established by rule of the department to cover expenses in the event of insolvency.

2000 Acts, ch 1004, §8, 22; 2000 Acts, ch 1232, §62; 2002 Acts, ch 1050, §27

249H.9 Senior living program information electronic access education advisory council.

1. The department of elder affairs and the area agencies on aging, in consultation with the senior living coordinating unit, shall create, on a county basis, a database directory of all health care and support services available to seniors. The department of elder affairs shall make the database electronically available to the public, and shall update the database on at least a monthly basis.
2. The department of elder affairs shall seek foundation funding to develop and provide an educational program for individuals aged twenty-one and older which assists participants in planning for and financing health care services and other supports in their senior years.
3. The department of human services shall develop and distribute an informational packet to the public that explains, in layperson terms, the law, regulations, and rules under the medical assistance program relative to health care services options for seniors, including but not limited to those relating to transfer of assets, prepaid funeral expenses, and life insurance policies.
4. The director of human services, the director of the department of elder affairs, the director of public health, the director of the department of inspections and appeals, the director of revenue, and the commissioner of insurance shall constitute a senior advisory council to provide oversight in the development and operation of all informational aspects of the senior living program under this section.

2000 Acts, ch 1004, §9, 22; 2003 Acts, ch 145, §286

249H.10 Caregiver support access and education programs.

The department of human services and the department of elder affairs, in consultation with the senior living coordinating unit, shall implement a caregiver support program to provide access to respite care and to provide education to caregivers in providing appropriate care to seniors and persons with disabilities. The program shall be provided through the area agencies on aging or other appropriate agencies.

2000 Acts, ch 1004, §10, 22

249H.11 Future repeal.

Section 249H.6 is repealed on June 30, 2005. However, grants awarded and moneys appropriated for grants on or before June 30, 2005, shall be disbursed to eligible applicants after that date if necessary.

2000 Acts, ch 1004, §11, 22