

**249A.12 Assistance to persons with mental retardation — state cases.**

1. Assistance may be furnished under [this chapter](#) to an otherwise eligible recipient who is a resident of a health care facility licensed under [chapter 135C](#) and certified as an intermediate care facility for persons with mental retardation.

2. A county shall reimburse the department on a monthly basis for that portion of the cost of assistance provided under [this section](#) to a recipient with legal settlement in the county, which is not paid from federal funds, if the recipient's placement has been approved by the appropriate review organization as medically necessary and appropriate. The department's goal for the maximum time period for submission of a claim to a county is not more than sixty days following the submission of the claim by the provider of the service to the department. The department's goal for completion and crediting of a county for cost settlement for the actual costs of a service under a home and community-based services waiver is within two hundred seventy days of the close of a fiscal year for which cost reports are due from providers. The department shall place all reimbursements from counties in the appropriation for medical assistance, and may use the reimbursed funds in the same manner and for any purpose for which the appropriation for medical assistance may be used.

3. If a county reimburses the department for medical assistance provided under [this section](#) and the amount of medical assistance is subsequently repaid through a medical assistance income trust or a medical assistance special needs trust as defined in [section 633C.1](#), the department shall reimburse the county on a proportionate basis. The department shall adopt rules to implement [this subsection](#).

4. *a.* Effective July 1, 1995, the state shall be responsible for all of the nonfederal share of the costs of intermediate care facility for persons with mental retardation services provided under medical assistance to minors. Notwithstanding [subsection 2](#) and contrary provisions of [section 222.73](#), effective July 1, 1995, a county is not required to reimburse the department and shall not be billed for the nonfederal share of the costs of such services provided to minors.

*b.* Effective July 1, 1995, the state shall be responsible for all of the nonfederal share of medical assistance home and community-based services waivers for persons with mental retardation services provided to minors and a county is not required to reimburse the department and shall not be billed for the nonfederal share of the costs of the services.

*c.* Effective February 1, 2002, the state shall be responsible for all of the nonfederal share of the costs of intermediate care facility for persons with mental retardation services provided under medical assistance attributable to the assessment fee for intermediate care facilities for individuals with mental retardation imposed pursuant to [section 249A.21](#). Notwithstanding [subsection 2](#), effective February 1, 2003, a county is not required to reimburse the department and shall not be billed for the nonfederal share of the costs of such services attributable to the assessment fee.

5. *a.* The mental health, mental retardation, developmental disabilities, and brain injury commission shall recommend to the department the actions necessary to assist in the transition of individuals being served in an intermediate care facility for persons with mental retardation, who are appropriate for the transition, to services funded under a medical assistance home and community-based services waiver for persons with mental retardation in a manner which maximizes the use of existing public and private facilities. The actions may include but are not limited to submitting any of the following or a combination of any of the following as a request for a revision of the medical assistance home and community-based services waiver for persons with mental retardation in effect as of June 30, 1996:

(1) Allow for the transition of intermediate care facilities for persons with mental retardation licensed under [chapter 135C](#) as of June 30, 1996, to services funded under the medical assistance home and community-based services waiver for persons with mental retardation. The request shall be for inclusion of additional persons under the waiver associated with the transition.

(2) Allow for reimbursement under the waiver for day program or other service costs.

(3) Allow for exception provisions in which an intermediate care facility for persons with mental retardation which does not meet size and other facility-related requirements under

the waiver in effect on June 30, 1996, may convert to a waiver service for a set period of time such as five years. Following the set period of time, the facility would be subject to the waiver requirements applicable to services which were not operating under the exception provisions.

b. In implementing the provisions of [this subsection](#), the mental health, mental retardation, developmental disabilities, and brain injury commission shall consult with other states. The waiver revision request or other action necessary to assist in the transition of service provision from intermediate care facilities for persons with mental retardation to alternative programs shall be implemented by the department in a manner that can appropriately meet the needs of individuals at an overall lower cost to counties, the federal government, and the state. In addition, the department shall take into consideration significant federal changes to the medical assistance program in formulating the department's actions under [this subsection](#). The department shall consult with the mental health, mental retardation, developmental disabilities, and brain injury commission in adopting rules for oversight of facilities converted pursuant to [this subsection](#). A transition approach described in paragraph "a" may be modified as necessary to obtain federal waiver approval.

6. a. Effective July 1, 2003, the provisions of the home and community-based services waiver for persons with mental retardation shall include adult day care, prevocational, and transportation services. Transportation shall be included as a separately payable service.

b. The department of human services shall seek federal approval to amend the home and community-based services waiver for persons with mental retardation to include day habilitation services. Inclusion of day habilitation services in the waiver shall take effect upon receipt of federal approval and no later than July 1, 2004.

c. The person's county of legal settlement shall pay for the nonfederal share of the cost of services provided under the waiver, and the state shall pay for the nonfederal share of such costs if the person has no legal settlement or the legal settlement is unknown so that the person is deemed to be a state case.

d. The county of legal settlement shall pay for one hundred percent of the nonfederal share of the costs of care provided for adults which is reimbursed under a home and community-based services waiver that would otherwise be approved for provision in an intermediate care facility for persons with mental retardation provided under the medical assistance program.

7. When paying the necessary and legal expenses for intermediate care facility for persons with mental retardation services, the cost requirements of [section 222.60](#) shall be considered fulfilled when payment is made in accordance with the medical assistance payment rates established by the department for intermediate care facilities for persons with mental retardation, and the state or a county of legal settlement shall not be obligated for any amount in excess of the rates.

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

[C77, 79, 81, §249A.12]

83 Acts, ch 123, §96, 209; 84 Acts, ch 1297, §6; 94 Acts, ch 1120, §2; 94 Acts, ch 1163, §1; 95 Acts, ch 68, §3; 96 Acts, ch 1129, §113; 96 Acts, ch 1183, §30, 31; 2002 Acts, ch 1146, §5, 6; 2003 Acts, ch 62, §4, 8; 2003 Acts, ch 118, §1; 2004 Acts, ch 1086, §45 – 47; 2004 Acts, ch 1090, §15, 16; 2005 Acts, ch 38, §55; 2005 Acts, ch 175, §109 – 111; 2006 Acts, ch 1066, §1; 2006 Acts, ch 1115, §15; 2007 Acts, ch 22, §56

Referred to in [§331.402](#), [426B.1](#)

Appropriations to fund the costs under subsection 4 from the property tax relief fund; see [§426B.1\(3\)](#)