

CHAPTER 225C

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

[P]

County participation in funding for services to persons with
disabilities; §249A.26[P] Review of out-of-state placements;
98 Acts, ch 1155, §3

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SUBCHAPTER I GENERAL PROVISIONS

225C.1 Findings and purpose.

1. 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 enabled many counties to exceed minimum state standards for the services resulting in an uneven level of services around the state. 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 disability 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.

2. 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; that disability services are individualized, provided to produce results, flexible, and cost-effective; and that disability services be provided in a manner which supports the ability of persons with disabilities to live, learn, work, and recreate in communities of their choice.

[81 Acts, ch 78, §1, 20]

94 Acts, ch 1170, §10; 2006 Acts, ch 1115, §2

225C.2 Definitions.

As used in this chapter:

1. “*Administrator*” means the administrator of the division.
2. “*Central point of coordination process*” means the same as defined in section 331.440.
3. “*Commission*” means the mental health and disability services commission.
4. “*Department*” means the department of human services.
5. “*Director*” means the director of human services.
6. “*Disability services*” means services and other support 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 disability services of the department.
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; 2006 Acts, ch 1115, §3, 24; 2010 Acts, ch 1031, §382

225C.3 Division of mental health and disability services — 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; 2006 Acts, ch 1115, §34

225C.4 Administrator's duties.

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

a. Prepare and administer the comprehensive mental health and disability services plan as provided in section 225C.6B, including state mental health and mental retardation plans for the provision of disability services within the state and 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. The administrator shall work with the commission and other state agencies, including but not limited to the departments of corrections, education, and public health and the state board of regents, to develop and implement a strategic plan to expand access to qualified mental health workers across the state.

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. The administrator shall annually submit to the commission information collected by the department indicating the changes and trends in the disability services system.

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.

t. Coordinate with the mental health planning and advisory council created pursuant to 42 U.S.C. § 300x-3 to ensure the council membership includes representation by a military veteran who is knowledgeable concerning the behavioral and mental health issues of veterans.

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; 2006 Acts, ch 1115, §4, 5; 2010 Acts, ch 1031, §374; 2010 Acts, ch 1106, §1

225C.5 Mental health and disability services commission.

1. A mental health and disability services 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's voting members shall be appointed to three-year staggered terms by the governor and are 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. The membership of the commission shall consist of 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. One member shall be an active board member of an agency serving persons with a substance abuse problem selected from nominees submitted by the Iowa behavioral health association.

k. One member shall be a military veteran who is knowledgeable concerning the behavioral and mental health issues of veterans.

l. 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 for a term as provided in section 69.16B 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; 2008 Acts, ch 1156, §30, 58; 2008 Acts, ch 1187, §51; 2009 Acts, ch 106, §7, 14; 2010 Acts, ch 1031, §383; 2010 Acts, ch 1106, §2; 2011 Acts, ch 34, §53

[P] Confirmation, see §2.32

[T] Subsection 1, paragraph k amended

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 administrator shall determine whether to grant, deny, or revoke the accreditation of the centers, services, and programs.

d. Adopt standards for the provision under medical assistance of individual case management services.

e. Unless another governmental body sets standards for a service available to persons with disabilities, adopt state standards for that service. The commission shall review the licensing standards used by the department of human services or department of inspections and appeals for those facilities providing disability services.

f. Assure that proper reconsideration and 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 and the mental health planning council, created pursuant to federal law. The commission shall work with other state agencies on coordinating, collaborating, and communicating concerning activities involving persons with disabilities.

l. Identify basic financial eligibility standards for disability services. The standards shall include but are not limited to the following:

(1) A financial eligibility standard providing that a person with an income equal to or less than one hundred fifty percent of the federal poverty level, as defined by the most recently revised poverty income guidelines published by the United States department of health and human services, is eligible for disability services paid with public funding. However, a county may apply a copayment requirement for a particular disability service to a person with an income equal to or less than one hundred fifty percent of the federal poverty level, provided the disability service and the copayment amount both comply with rules adopted by the commission applying uniform standards with respect to copayment requirements. A person with an income above one hundred fifty percent of the federal poverty level may be eligible subject to a copayment or other cost-sharing arrangement subject to limitations adopted in rule by the commission.

(2) A requirement that a person who is eligible for federally funded services and other support must apply for the services and support.

(3) Resource limitations that are derived from the federal supplemental security income program limitations. A person with resources above the federal supplemental security income program limitations may be eligible subject to limitations adopted in rule by the commission. If a person does not qualify for federally funded services and other support but meets income, resource, and functional eligibility requirements, the following types of resources shall be disregarded:

- (a) A retirement account that is in the accumulation stage.
- (b) A burial, medical savings, or assistive technology account.

m. Identify disability services outcomes and indicators to support the ability of eligible persons with a disability to live, learn, work, and recreate in communities of the persons' choice. The identification duty includes but is not limited to responsibility for identifying, collecting, and analyzing data as necessary to issue reports on outcomes and indicators at the county and state levels.

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 disability services policy 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; 2006 Acts, ch 1115, §6, 13; 2007 Acts, ch 218, §118; 2010 Acts, ch 1031, §375; 2011 Acts, ch 34, §54

[T] Subsection 1, paragraph k amended

225C.6A Disability services system redesign.

The commission shall do the following relating to redesign of the disability services system in the state:

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

2. Ensure there is a continuous improvement process for development and maintenance of the disability services system for adults and children. The process shall include but is not limited to data collection and reporting provisions.

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

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

c. Each county shall report to the department annually on or before December 1, for the preceding fiscal year the following information for each individual served: demographic information, expenditure data, and data concerning the services and other support provided to each individual, as specified in administrative rule adopted by the commission.

4. 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; 2006 Acts, ch 1159, §1, 3; 2007 Acts, ch 218, §87, 92; 2010 Acts, ch 1031, §376

225C.6B Mental health and disability services system — legislative intent — comprehensive plan.

1. *Intent.*

a. The general assembly intends for the state to implement a comprehensive, continuous, and integrated state mental health and disability services plan in accordance with the requirements of sections 225C.4 and 225C.6 and other provisions of this chapter, by increasing the department's responsibilities in the development, funding, oversight, and ongoing leadership of mental health and disability services in this state.

b. In order to further the purposes listed in section 225C.1 and in other provisions of this chapter, the general assembly intends that efforts focus on the goal of making available a comprehensive array of high-quality, evidence-based consumer and family-centered mental health and disability services and other support in the least restrictive, community-based setting appropriate for a consumer.

c. In addition, it is the intent of the general assembly to promote policies and practices that achieve for consumers the earliest possible detection of mental health problems and the need for disability services and for early intervention; to stress that all health care programs address mental health disorders with the same urgency as physical health disorders; to promote the policies of all public programs that serve adults and children with mental disorders or with a need for disability services, including but not limited to child welfare, Medicaid, education, housing, criminal and juvenile justice, substance abuse treatment, and employment services; to consider the special mental health and disability services needs of adults and children; and to promote recovery and resiliency as expected outcomes for all consumers.

2. *Comprehensive plan.* The division shall develop a comprehensive written five-year state mental health and disability services plan with annual updates and readopt the plan every five years. The plan shall describe the key components of the state's mental health and disability services system, including the services that are community-based, state institution-based, or regional or state-based. The five-year plan and each update shall be submitted annually to the commission on or before October 30 for review and approval.

2007 Acts, ch 218, §93; 2010 Acts, ch 1031, §377, 378

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. If the allocation methodology includes a population factor, the most recent population estimates issued by the United States bureau of the census shall be applied.

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; 2007 Acts, ch 218, §77

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

225C.9 through 225C.11 Repealed by 94 Acts, ch 1170, § 54.

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. 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 division administrator 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 1049, §191; 2004 Acts, ch 1175, §393; 2006 Acts, ch 1115, §25

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, §8 – 11

225C.19 Emergency mental health crisis services system.

1. For the purposes of this section:

a. “*Emergency mental health crisis services provider*” means a provider accredited or approved by the department to provide emergency mental health crisis services.

b. “*Emergency mental health crisis services system*” or “*services system*” means a coordinated array of crisis services for providing a response to assist an individual adult or child who is experiencing a mental health crisis or who is in a situation that is reasonably likely to cause the individual to have a mental health crisis unless assistance is provided.

2. a. The division shall implement an emergency mental health crisis services system in consultation with counties, and community mental health centers and other mental health and social service providers, in accordance with this section.

b. The purpose of the services system is to provide a statewide array of time-limited intervention services to reduce escalation of crisis situations, relieve the immediate distress of individuals experiencing a crisis situation, reduce the risk of individuals in a crisis situation doing harm to themselves or others, and promote timely access to appropriate services for those who require ongoing mental health services.

c. The services system shall be available twenty-four hours per day, seven days per week to any individual who is in or is determined by others to be in a crisis situation, regardless of whether the individual has been diagnosed with a mental illness or a co-occurring mental illness and substance abuse disorder. The system shall address all ages, income levels, and health coverage statuses.

d. The goals of an intervention offered by a provider under the services system shall include but are not limited to symptom reduction, stabilization of the individual receiving the intervention, and restoration of the individual to a previous level of functioning.

e. The elements of the services system shall be specified in administrative rules adopted by the commission.

3. The services system elements shall include but are not limited to all of the following:

a. Standards for accrediting or approving emergency mental health crisis services providers. Such providers may include but are not limited to a community mental health center, a provider approved in a waiver adopted by the commission to provide services to a county in lieu of a community mental health center, a unit of the department or other state agency, a county, or any other public or private provider who meets the accreditation or approval standards for an emergency mental health crisis services provider.

b. Identification by the division of geographic regions, service areas, or other means of distributing and organizing the emergency mental health crisis services system to ensure statewide availability of the services.

c. Coordination of emergency mental health crisis services with all of the following:

(1) The district and juvenile courts.

(2) Law enforcement.

(3) Judicial district departments of correctional services.

(4) County central point of coordination processes.

(5) Other mental health, substance abuse, and co-occurring mental illness and substance abuse services available through the state and counties to serve both children and adults.

d. Identification of basic services to be provided through each accredited or approved emergency mental health crisis services provider which may include but are not limited to face-to-face crisis intervention, stabilization, support, counseling, preadmission screening for individuals who may require psychiatric hospitalization, transportation, and follow-up services.

e. Identification of operational requirements for emergency mental health crisis services provider accreditation or approval which may include providing a telephone hotline, mobile crisis staff, collaboration protocols, follow-up with community services, information systems, and competency-based training.

4. The division shall initially implement the program through a competitive block grant

process. The implementation shall be limited to the extent of the appropriations provided for the program.

2008 Acts, ch 1187, §52; 2009 Acts, ch 41, §88

[SP] Appropriation of funds for implementation of system beginning January 1, 2009; 2008 Acts, ch 1187, §9; 2009 Acts, ch 182, §72, 87

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 administrator 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; 2010 Acts, ch 1031, §379

225C.22 Repealed by 89 Acts, ch 320, § 13.

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

[P] *Section 135.22A refers to “brain injury” definition in §135.22

225C.24 Repealed by 90 Acts, ch 1012, § 1, 2.

SUBCHAPTER II

BILL OF RIGHTS

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. Repealed by 2010 Acts, ch 1031, § 381.

225C.28 Repealed by 92 Acts, ch 1241, § 79.

225C.28A Service quality standards.

As the state participates more fully in funding services and other support 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 treatment, habilitation, and program services that are individualized, provided to produce results, flexible, and cost-effective, 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.
7. Provide an ongoing process to determine the degree of access to and the effectiveness of the services and other support in achieving the disability services outcomes and indicators identified by the commission pursuant to section 225C.6.

92 Acts, ch 1241, §66; 2006 Acts, ch 1115, §8

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.

SUBCHAPTER III

FAMILY SUPPORT SUBSIDY

225C.35 Definitions.

For purposes of this subchapter, 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 Tit. XVI of the federal Social Security Act, 42 U.S.C. § 1381 – 1383c.
- 88 Acts, ch 1122, §2; 90 Acts, ch 1114, §1; 96 Acts, ch 1129, §113; 2009 Acts, ch 41, §89

225C.36 Family support subsidy program.

A family support subsidy program is created as specified in this subchapter. The purpose of the family support subsidy program 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; 2009 Acts, ch 41, §90

225C.37 Program specifications rules.

1. 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:

- a. A statement that the family resides in a county of this state.
- b. Verification that the family member meets the definitional requirements of section 225C.35, subsection 3. Along with the verification, the application shall identify an age when the family member's eligibility for the family support subsidy under such definitional requirements will end. The age identified is subject to approval by the department.
- c. 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.
- d. 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.
- e. 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.

2. 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 subsection 1, paragraphs "a" through "e", and shall notify the parent or legal guardian of the decision.

3. Effective July 1, 2010, the department shall not accept new applications for the family support subsidy program and shall not approve pending applications for the program. Subsidy termination or application denial relating to family members enrolled in the family support subsidy program as of July 1, 2010, is subject to section 225C.40.

88 Acts, ch 1122, §4; 90 Acts, ch 1039, §13; 90 Acts, ch 1114, §3; 2006 Acts, ch 1159, §11; 2009 Acts, ch 41, §263; 2010 Acts, ch 1031, §403

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 or other means available to the family.

c. Except as provided in section 225C.41, a family support subsidy for a fiscal year shall be in an amount determined by the department in consultation with the comprehensive family support council created in section 225C.48. The parent or legal guardian receiving a family support subsidy may elect to receive a payment amount which is less than the amount determined in accordance with this paragraph.

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.

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

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

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

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

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.

88 Acts, ch 1122, §5; 91 Acts, ch 38, §2, 3; 98 Acts, ch 1218, §71; 2006 Acts, ch 1159, §12, 13, 29

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

4. If a family appeals the termination of a family member who has attained the age of eighteen years, family support subsidy payments for that family member shall be withheld pending resolution of the appeal.

88 Acts, ch 1122, §7; 2006 Acts, ch 1159, §14; 2008 Acts, ch 1187, §114

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 or to expand the comprehensive family support program in the succeeding fiscal year.

88 Acts, ch 1122, §8; 91 Acts, ch 38, §4; 2006 Acts, ch 1159, §15

225C.42 Annual evaluation of program.

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

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 period 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; 2005 Acts, ch 19, §36; 2006 Acts, ch 1159, §16, 28

225C.43 and 225C.44 Reserved.

SUBCHAPTER IV

PUBLIC HOUSING UNIT

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

SUBCHAPTER V

FAMILY SUPPORT SERVICES

[P] Legislative findings, 94 Acts, ch 1041, §1

225C.46 Personal assistance services program. Repealed by 2006 Acts, ch 1159, § 27.

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

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

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 family support center component of the program developed 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 family support center component developed by the department in accordance with this subsection. Under the component, a family member of an individual with a disability shall be assisted by a family support center in identifying the services and support to be provided to the family under the family support subsidy program or the comprehensive family support program. The identification of services and support shall be based upon the specific needs of the individual and the individual's family which are not met by other service programs available to the individual and the individual's family.

94 Acts, ch 1041, §3; 96 Acts, ch 1084, §1 – 5; 2006 Acts, ch 1159, §17 – 21

225C.48 Comprehensive family support council.

1. a. An eleven-member comprehensive family support council is created in the department. The members of the council shall be appointed by the governor. At least five of the appointments shall be a family member of an individual with a disability as defined in section 225C.47. At least five of the appointments shall be current or former service consumers or family members of such service consumers. Members shall serve for three-year staggered terms. A vacancy on the council shall be filled in the same manner as the original appointment.

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

c. The council shall elect officers from among the council's members.

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 family support subsidy program created in section 225C.36 and the comprehensive family support program created in section 225C.47. The council shall perform an annual evaluation of each program, and annually make recommendations concerning each program to the governor and general assembly. The evaluation and recommendations shall be prepared and submitted in conjunction with the evaluation report submitted by the department pursuant

to section 225C.42. The department shall provide sufficient staff support to the council to enable the council to carry out its responsibilities.

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

- a. Oversee the operations of the programs.
- b. Coordinate with the department of education and programs administered by the department of education to individuals with a disability, in providing information to individuals and families eligible for the programs.
- 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 the family support subsidy and comprehensive family support programs as approved service provisions under managed care.
- d. Develop and oversee implementation of evaluation processes for the programs.
- e. Oversee statewide training of department and family support center staff regarding the 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.

94 Acts, ch 1041, §4; 96 Acts, ch 1084, §6; 98 Acts, ch 1218, §72, 83; 2006 Acts, ch 1159, §22; 2008 Acts, ch 1156, §31, 58

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 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 implement the family support subsidy and comprehensive family support programs under this chapter.

4. The department shall designate one individual whose sole duties are to provide central coordination of the programs under sections 225C.36 and 225C.47 and to work with the comprehensive family support council to oversee development and implementation of the programs.

96 Acts, ch 1084, §7; 2006 Acts, ch 1159, §23, 24; 2007 Acts, ch 172, §8

225C.50 Reserved.

SUBCHAPTER VI
MENTAL HEALTH SERVICES
SYSTEM FOR CHILDREN
AND YOUTH

225C.51 Definitions.

For the purposes of this subchapter:

1. “Child” or “children” means a person or persons under eighteen years of age.
2. “Children’s system” or “mental health services system for children and youth” means the mental health services system for children and youth implemented pursuant to this subchapter.
3. “Functional impairment” means difficulties that substantially interfere with or limit a person from achieving or maintaining one or more developmentally appropriate social, behavioral, cognitive, communicative, or adaptive skills and that substantially interfere with or limit the person’s role or functioning in family, school, or community activities. “Functional impairment” includes difficulties of episodic, recurrent, and continuous duration. “Functional impairment” does not include difficulties resulting from temporary and expected responses to stressful events in a person’s environment.
4. “Other qualifying mental health disorder” means a mental health crisis or any diagnosable mental health disorder that is likely to lead to mental health crisis unless there is an intervention.
5. “Serious emotional disturbance” means a diagnosable mental, behavioral, or emotional disorder of sufficient duration to meet diagnostic criteria specified within the most current diagnostic and statistical manual of mental disorders published by the American psychiatric association that results in a functional impairment. “Serious emotional disturbance” does not include substance use and developmental disorders unless such disorders co-occur with such a diagnosable mental, behavioral, or emotional disorder.
6. “Youth” means a person eighteen years of age or older but under twenty-two years of age who met the criteria for having a serious emotional disturbance prior to the age of eighteen.

2008 Acts, ch 1187, §53; 2009 Acts, ch 41, §91, 92

225C.52 Mental health services system for children and youth — purpose.

1. Establishing a comprehensive community-based mental health services system for children and youth is part of fulfilling the requirements of the division and the commission to facilitate a comprehensive, continuous, and integrated state mental health and disability services plan in accordance with sections 225C.4, 225C.6, and 225C.6A, and other provisions of this chapter. The purpose of establishing the children’s system is to improve access for children and youth with serious emotional disturbances and youth with other qualifying mental health disorders to mental health treatment, services, and other support in the least restrictive setting possible so the children and youth can live with their families and remain in their communities. The children’s system is also intended to meet the needs of children and youth who have mental health disorders that co-occur with substance abuse, mental retardation, developmental disabilities, or other disabilities. The children’s system shall emphasize community-level collaborative efforts between children and youth and the families and the state’s systems of education, child welfare, juvenile justice, health care, substance abuse, and mental health.
2. The goals and outcomes desired for the children’s system shall include but are not limited to all of the following:
 - a. Identifying the mental health needs of children and youth.
 - b. Performing comprehensive assessments of children and youth that are designed to identify functional skills, strengths, and services needed.

- c. Providing timely access to available treatment, services, and other support.
- d. Offering information and referral services to families to address service needs other than mental health.
- e. Improving access to needed mental health services by allowing children and youth to be served with their families in the community.
- f. Preventing or reducing utilization of more costly, restrictive care by reducing the unnecessary involvement of children and youth who have mental health needs and their families with law enforcement, the corrections system, and detention, juvenile justice, and other legal proceedings; reducing the involvement of children and youth with child welfare services or state custody; and reducing the placement of children and youth in the state juvenile institutions, state mental health institutes, or other public or private residential psychiatric facilities.
- g. Increasing the number of children and youth assessed for functional skill levels.
- h. Increasing the capacity to develop individualized, strengths-based, and integrated treatment plans for children, youth, and families.
- i. Promoting communications with caregivers and others about the needs of children, youth, and families engaged in the children's system.
- j. Developing the ability to aggregate data and information, and to evaluate program, service, and system efficacy for children, youth, and families being served on a local and statewide basis.
- k. Implementing and utilizing outcome measures that are consistent with but not limited to the national outcomes measures identified by the substance abuse and mental health services administration of the United States department of health and human services.
- l. Identifying children and youth whose mental health or emotional condition, whether chronic or acute, represents a danger to themselves, their families, school students or staff, or the community.

2008 Acts, ch 1187, §54; 2010 Acts, ch 1031, §380

225C.53 Role of department and division — transition to adult system.

1. The department is the lead agency responsible for the development, implementation, oversight, and management of the mental health services system for children and youth in accordance with this chapter. The department's responsibilities shall be fulfilled by the division.
2. The division's responsibilities relating to the children's system include but are not limited to all of the following:
 - a. Ensuring that the rules adopted for the children's system provide that, within the limits of appropriations for the children's system, children and youth shall not be inappropriately denied necessary mental health services.
 - b. Establishing standards for the provision of home and community-based mental health treatment, services, and other support under the children's system.
 - c. Identifying and implementing eligibility criteria for the treatment, services, and other support available under the children's system.
 - d. Ongoing implementation of recommendations identified through children's system improvement efforts.
3. An adult person who met the criteria for having a serious emotional disturbance prior to the age of eighteen may qualify to continue services through the adult mental health system.

2008 Acts, ch 1187, §55

225C.54 Mental health services system for children and youth — initial implementation.

1. The mental health services system for children and youth shall be initially implemented by the division commencing with the fiscal year beginning July 1, 2008. The division shall begin implementation by utilizing a competitive bidding process to allocate state block grants to develop services through existing community mental health centers, providers approved in a waiver adopted by the commission to provide services to a county in lieu of a community mental health center, and other local service partners. The implementation shall be limited to the extent of the appropriations provided for the children's system.

2. In order to maximize federal financial participation in the children's system, the division and the department's Medicaid program staff shall analyze the feasibility of leveraging existing Medicaid options, such as expanding the home and community-based services waiver for children's mental health services, reviewing the feasibility of implementing other Medicaid options such as the federal Tax Equity and Financial Responsibility Act of 1982 (TEFRA) option for children with severe mental illness or emotional disturbance and Medicaid administrative funding, and determining the need for service enhancements through revisions to the Medicaid state plan and the federal state children's health insurance program and the healthy and well kids in Iowa program.

3. Initial block grants shall support a wide range of children, youth, and family services and initiatives including but not limited to school-based mental health projects, system reviews providing service gap analysis, status studies of the mental health needs of children and youth in representative areas of the state, and mental health assessment capacity development based in public and nonpublic schools and clinical settings using standard functional assessment tools. The purpose of developing the assessment capacity is to determine children's and youths' degree of impairment in daily functioning due to emotional, behavioral, psychological, psychiatric, or substance use problems.

4. The initial block grants may also support an array of programs and services including but not limited to mobile crisis intervention services, or other support intended to prevent more intensive or inpatient interventions, skills training, intensive care coordination, and cognitive-behavioral and multisystemic family therapy. In addition, support may be provided for prevention-oriented services including mental health consultations regarding home visits, child welfare, juvenile justice, and maternal and child health services, and consultation for preschool programs.

5. The division shall report regularly to the commission, general assembly, and governor concerning the implementation status of the children's system, including but not limited to an annual report submitted each January. The report may address funding requirements and statutory amendments necessary to further develop the children's system.

2008 Acts, ch 1187, §56

[SP] Appropriation of funds for implementation of system beginning January 1, 2009; 2008 Acts, ch 1187, §9; 2009 Acts, ch 182, §72, 87