

231E.4 State office of substitute decision maker — established — duties — department rules.

1. A state office of substitute decision maker is established within the department to create and administer a statewide network of substitute decision makers who provide substitute decision-making services if other substitute decision makers are not available to provide the services.

2. The director shall appoint an administrator of the state office who shall serve as the state substitute decision maker. The state substitute decision maker shall be qualified for the position by training and expertise in substitute decision-making law and shall be licensed to practice law in Iowa. The state substitute decision maker shall also have knowledge of social services available to meet the needs of persons adjudicated incompetent or in need of substitute decision making.

3. The state office shall do all of the following:

a. Select persons through a request for proposals process to establish local offices of substitute decision maker in each of the planning and service areas. Local offices shall be established statewide on or before July 1, 2015.

b. Monitor and terminate contracts with local offices based on criteria established by rule of the department.

c. Retain oversight responsibilities for all local substitute decision makers.

d. Act as substitute decision maker if a local office is not available to so act.

e. Work with the department of human services, the Iowa department of public health, the Iowa developmental disabilities council, and other agencies to establish a referral system for the provision of substitute decision-making services.

f. Develop and maintain a current listing of public and private services and programs available to assist wards, principals, clients, personal representatives, and their families and establish and maintain relationships with public and private entities to assure the availability of effective substitute decision-making services for wards, principals, clients, and estates.

g. Provide information and referrals to the public regarding substitute decision-making services.

h. Provide personal representatives for estates where a person is not available for that purpose.

i. Maintain statistical data on the local offices including various methods of funding, the types of services provided, and the demographics of the wards, principals, clients, and decedents and report to the general assembly on or before November 1, annually, regarding the local offices and recommend any appropriate legislative action.

j. Develop, in cooperation with the judicial council as established in section 602.1202, a substitute decision-maker education and training program. The program may be offered to both public and private substitute decision makers. The state office shall establish a curriculum committee, which includes but is not limited to probate judges, to develop the education and training program. The state office shall be the sole authority for certifying additional curriculum trainers.

4. The state office may do any of the following:

a. Accept and receive gifts, grants, or donations from any public or private entity in support of the state office. Such gifts, grants, or donations shall be appropriated pursuant to section 231E.9. Notwithstanding section 8.33, moneys retained by the department pursuant to this section shall not be subject to reversion to the general fund of the state.

b. Accept the services of individual volunteers and volunteer organizations. Volunteers and volunteer organizations utilized by the state office shall not provide direct substitute decision-making services.

c. Employ staff necessary to administer the state office and enter into contracts as necessary.

5. The department shall provide administrative support to the state office.

6. The department shall adopt rules in accordance with chapter 17A necessary to create and administer the state and local offices, relating to but not limited to all of the following:

a. An application and intake process and standards for receipt of substitute decision-making services from the state or a local office.

b. A process for the removal or termination of the state or a local substitute decision maker.

c. An ideal range of staff-to-client ratios for the state and local substitute decision makers.

d. Minimum training and experience requirements for professional staff and volunteers.

e. A fee schedule. The department may establish by rule a schedule of reasonable fees for the costs of substitute decision-making services provided under this chapter. The fee schedule established may be based upon the ability of the ward, principal, client, or estate to pay for the services but shall not exceed the actual cost of providing the services. The state office or a local office may waive collection of a fee upon a finding that collection is not economically feasible. The rules may provide that the state office or a local office may investigate the financial status of a ward, principal, client, or estate that requests substitute decision-making services or for whom or which the state or a local substitute decision maker has been appointed for the purpose of determining the fee to be charged by requiring the ward, principal, client, or estate to provide any written authorizations necessary to provide access to records of public or private sources, otherwise confidential, needed to evaluate the individual's or estate's financial eligibility. The rules may also provide that the state or a local substitute decision maker may, upon request and without payment of fees otherwise required by law, obtain information necessary to evaluate the individual's or estate's financial eligibility from any office of the state or of a political subdivision or agency of the state that possesses public records. In estate proceedings, the state or local decision maker shall be compensated pursuant to chapter 633, division III, part 8.

f. Standards and performance measures for evaluation of local offices.

g. Recordkeeping and accounting procedures to ensure that the state office and local offices maintain confidential, accurate, and up-to-date financial, case, and statistical records. The rules shall require each local office to file with the state office, on an annual basis, an account of all public and private funds received and a report regarding the operations of the local office for the preceding fiscal year.

h. Procedures for the sharing of records held by the court or a state agency with the state office, which are necessary to evaluate the state office or local offices, to assess the need for additional substitute decision makers, or to develop required reports.

2005 Acts, ch 175, §133; 2009 Acts, ch 23, §44 – 46; 2012 Acts, ch 1023, §30

[T] Subsection 3, paragraph e amended