

Senate Amendment 5261

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1 1 Amend House File 2780, as amended, passed, and
1 2 reprinted by the House, as follows:
1 3 #1. Page 1, by inserting after line 2 the
1 4 following:
1 5 <Section 1. Section 125.82, subsection 3, Code
1 6 2005, as amended by 2006 Iowa Acts, Senate File 2362,
1 7 section 1, if enacted, and 2006 Iowa Acts, Senate File
1 8 2217, section 30, if enacted, is amended to read as
1 9 follows:
1 10 3. The person who filed the application and a
1 11 licensed physician, ~~or qualified mental health~~
1 12 professional as defined in section ~~229.1~~ 228.1, or
1 13 ~~certified alcohol and drug counselor certified by the~~
1 14 ~~nongovernmental Iowa board of substance abuse~~
1 15 ~~certification~~ who has examined the respondent in
1 16 connection with the commitment hearing shall be
1 17 present at the hearing, unless the court for good
1 18 cause finds that their presence or testimony is not
1 19 necessary. The applicant, respondent, and the
1 20 respondent's attorney may waive the presence or
1 21 telephonic appearance of the licensed physician, ~~or~~
1 22 ~~qualified mental health professional, or certified~~
1 23 ~~alcohol and drug counselor~~ who examined the respondent
1 24 and agree to submit as evidence the written report of
1 25 the licensed physician, ~~or qualified mental health~~
1 26 ~~professional, or certified alcohol and drug counselor.~~
1 27 The respondent's attorney shall inform the court if
1 28 the respondent's attorney reasonably believes that the
1 29 respondent, due to diminished capacity, cannot make an
1 30 adequately considered waiver decision. "Good cause"
1 31 for finding that the testimony of the licensed
1 32 physician, ~~or qualified mental health professional, or~~
1 33 ~~certified alcohol and drug counselor~~ who examined the
1 34 respondent is not necessary may include, but is not
1 35 limited to, such a waiver. If the court determines
1 36 that the testimony of the licensed physician, ~~or~~
1 37 ~~qualified mental health professional, or certified~~
1 38 ~~alcohol and drug counselor~~ is necessary, the court may
1 39 allow the licensed physician, ~~or qualified mental~~
1 40 ~~health professional, or certified alcohol and drug~~
1 41 ~~counselor~~ to testify by telephone. The respondent
1 42 shall be present at the hearing unless prior to the
1 43 hearing the respondent's attorney stipulates in
1 44 writing that the attorney has conversed with the
1 45 respondent, and that in the attorney's judgment the
1 46 respondent cannot make a meaningful contribution to
1 47 the hearing, or that the respondent has waived the
1 48 right to be present, and the basis for the attorney's
1 49 conclusions. A stipulation to the respondent's
1 50 absence shall be reviewed by the court before the
2 1 hearing, and may be rejected if it appears that
2 2 insufficient grounds are stated or that the
2 3 respondent's interests would not be served by the
2 4 respondent's absence.>
2 5 #2. Page 8, by striking line 4 and inserting the
2 6 following: <funding to counties and other public
2 7 funding for the services. The purposes of the review
2 8 include but are not limited to examining the public
2 9 sources of the funding and programming for the
2 10 services and to>.
2 11 #3. Page 8, line 13, by inserting after the word
2 12 <representatives.> the following: <In addition, the
2 13 membership shall include four ex officio, nonvoting
2 14 members with two representing the Iowa state
2 15 association of counties, one representing the
2 16 department of human services, and one representing the
2 17 mental health, mental retardation, developmental
2 18 disabilities, and brain injury commission. It is the
2 19 intent of the general assembly that the study
2 20 committee submit a report with findings and
2 21 recommendations to the governor, the general assembly,
2 22 and the commission on or before January 1, 2007.>
2 23 #4. Page 8, by inserting after line 16 the
2 24 following:

2 25 <Sec. _____. Section 249A.12, subsection 8, as
2 26 enacted by 2006 Iowa Acts, House File 2492, section 1,
2 27 is amended by striking the subsection and inserting in
2 28 lieu thereof the following:
2 29 8. If a person with mental retardation has no
2 30 legal settlement or the legal settlement is unknown so
2 31 that the person is deemed to be a state case and
2 32 services associated with the mental retardation can be
2 33 covered under a medical assistance home and
2 34 community-based waiver or other medical assistance
2 35 program provision, the nonfederal share of the medical
2 36 assistance program costs for such coverage shall be
2 37 paid from the appropriation made for the medical
2 38 assistance program.>
2 39 #5. Page 9, line 1, by striking the word and
2 40 figures <July 1, 2007> and inserting the following:
2 41 <October 1, 2006>.
2 42 #6. Page 9, line 35, by striking the word and
2 43 figures <July 1, 2007> and inserting the following:
2 44 <October 1, 2006>.
2 45 #7. Page 10, by striking lines 16 through 30 and
2 46 inserting the following:
2 47 <1. a. The section of this division of this Act
2 48 that amends section 331.440, subsection 3, takes
2 49 effect July 1, 2007.
2 50 b. This section, being deemed of immediate
3 1 importance, takes effect upon enactment, and the
3 2 department shall begin implementation upon enactment.
3 3 2. a. The department of human services and
3 4 counties, in consultation with the legislative
3 5 services agency, shall develop a methodology for
3 6 distributing the funding appropriated for the fiscal
3 7 year beginning July 1, 2006, for state case services
3 8 and other support, as defined in this division of this
3 9 Act, to counties for county residents who receive
3 10 state case services and other support, on and after
3 11 October 1, 2006. The methodology shall be based upon
3 12 historical usage, projected usage, and significant
3 13 increases anticipated in county costs. The department
3 14 and counties shall share with one another names and
3 15 necessary information concerning the individuals who
3 16 have been identified by the department or counties.
3 17 The methodology shall provide for quarterly
3 18 distributions.
3 19 b. The base funding amount used for the
3 20 distribution methodology to counties shall be 75
3 21 percent of the amount appropriated for state case
3 22 services and other support plus any reversions from
3 23 the previous fiscal year's appropriation, the amount
3 24 transferred from block grant funding, and any other
3 25 source designated by law. The base funding amount may
3 26 be adjusted for relevant purposes that may include but
3 27 are not limited to an adjustment to reflect the
3 28 expenditure savings realized from renegotiation of the
3 29 contract with the contractor providing managed care
3 30 for mental health services made pursuant to this
3 31 division of this Act.
3 32 c. Prior to September 1, 2006, the department
3 33 shall meet with each county to analyze the actual
3 34 numbers of individuals who are eligible for state case
3 35 services and other support and who as county residents
3 36 will be the financial and management responsibility of
3 37 the county effective October 1, 2006, the historical
3 38 costs of state case services and other support
3 39 provided to such individuals by the department, the
3 40 projected increase in cost of providing state case
3 41 services and other support to such individuals in
3 42 accordance with the county management plan, and the
3 43 projected cost to provide state case services and
3 44 other support at county reimbursement rates in lieu of
3 45 the capped reimbursement rates paid by the state. The
3 46 purpose of the analysis is for the department, in
3 47 consultation with each county, to determine by
3 48 September 1, 2006, an amount needed for the county to
3 49 fund state case services and other support for county
3 50 residents for the period beginning October 1, 2006,
4 1 and ending June 30, 2007. If a county disputes the
4 2 department's determination of the amount needed by the
4 3 county, the county may appeal the determination to the
4 4 director of human services. The county shall file the
4 5 appeal within 30 days of the issuance date of the

4 6 determination. The director's decision shall be
4 7 considered to be a final agency decision and may be
4 8 appealed as provided in chapter 17A. While an appeal
4 9 is pending, the department shall provide funding to
4 10 the county for state cases in the amount determined by
4 11 the department, subject to later adjustment based upon
4 12 the outcome of the appeal.

4 13 d. If the aggregate of the amounts determined for
4 14 each county, as provided in paragraph "c", exceeds the
4 15 base funding amount determined under paragraph "b",
4 16 notwithstanding section 331.440, subsection 3A, as
4 17 enacted by this division of this Act, the department
4 18 of human services shall retain responsibility for the
4 19 costs of state case services and other support for
4 20 persons deemed to be a state case through June 30,
4 21 2007. The department shall report to the governor and
4 22 general assembly on or before December 1, 2006,
4 23 recommendations to address the funding shortfall.

4 24 e. If the aggregate of the amounts determined for
4 25 each county, as provided in paragraph "c", is less
4 26 than the base funding amount determined under
4 27 paragraph "b", the amounts determined shall be
4 28 distributed to the counties and the excess amount
4 29 shall be reserved for distribution as provided in
4 30 paragraph "f".

4 31 f. (1) If a county becomes responsible for a new
4 32 individual state case whose costs were not included in
4 33 the amounts determined under paragraph "c", the county
4 34 shall supply the individual's application and service
4 35 and other support needs to the department for an
4 36 eligibility determination and identification of
4 37 funding availability. If the county disputes the
4 38 department's determination, the appeal provisions
4 39 under paragraph "c" shall apply.

4 40 (2) If an existing state case has a change in
4 41 condition that results in significant additional costs
4 42 that cannot be offset by savings from other state
4 43 cases or other means, the county may apply to the
4 44 department for relief to address the additional costs.
4 45 Relief payments approved by the department shall be
4 46 paid from the excess amount reserved under paragraph
4 47 "e" and are limited to that amount. In addition, if a
4 48 county has such additional costs and either did not
4 49 apply for relief or the application was denied in
4 50 whole or in part because at the time of the
5 1 application the excess amount reserved under paragraph
5 2 "e" was projected to be insufficient, the county may
5 3 apply for any funds from any excess amount available
5 4 under paragraph "e" that would otherwise remain
5 5 unexpended or unobligated at the close of the fiscal
5 6 year. Otherwise, the state liability for the cost of
5 7 the state case services and other support authorized
5 8 by a county of residence is limited to the amount
5 9 distributed to the county.

5 10 g. The state's liability for state case services
5 11 and other support for the fiscal year beginning July
5 12 1, 2006, is limited to the amount appropriated.

5 13 h. The provisions of this subsection shall be
5 14 adopted in rule as necessary to implement the
5 15 provisions. The mental health, mental retardation,
5 16 developmental disabilities, and brain injury
5 17 commission may adopt administrative rules under
5 18 section 17A.4, subsection 2, and section 17A.5,
5 19 subsection 2, paragraph "b", to implement the
5 20 provisions and the rules shall become effective
5 21 immediately upon filing or on a later effective date
5 22 specified in the rules, unless the effective date is
5 23 delayed by the administrative rules review committee.
5 24 Any rules adopted in accordance with this subsection
5 25 shall not take effect before the rules are reviewed by
5 26 the administrative rules review committee. The delay
5 27 authority provided to the administrative rules review
5 28 committee under section 17A.4, subsection 5, and
5 29 section 17A.8, subsection 9, shall be applicable to a
5 30 delay imposed under this subsection, notwithstanding a
5 31 provision in those sections making them inapplicable
5 32 to section 17A.5, subsection 2, paragraph "b". Any
5 33 rules adopted in accordance with the provisions of
5 34 this subsection shall also be published as notice of
5 35 intended action as provided in section 17A.4.>

5 36 #8. Page 10, line 33, by inserting after the word

5 37 <Act> the following: <amending section 331.440,
5 38 subsection 3, to take effect>.
5 39 #9. Page 11, by striking lines 10 through 24 and
5 40 inserting the following:
5 41 <4. The department of human services shall
5 42 renegotiate the department's contract with the
5 43 contractor providing managed care for mental health
5 44 services under the medical assistance program so that
5 45 any responsibility for the contractor to manage state
5 46 case services and other support, as defined by this
5 47 division of this Act, will end on or before September
5 48 30, 2006. The expenditure savings realized from
5 49 making this change shall remain with the state case
5 50 appropriation for distribution to counties of
6 1 residence.
6 2 5. The department of human services and counties
6 3 shall work with the department's consultant to develop
6 4 a proposal for a case rate system that may be used in
6 5 subsequent fiscal years for distributing funding to
6 6 counties for the state case services and other support
6 7 provided to county residents. The case rate system
6 8 proposal developed is subject to approval by the
6 9 mental health, mental retardation, developmental
6 10 disabilities, and brain injury commission, shall be
6 11 submitted to the governor and general assembly in
6 12 January 2007, and shall not be implemented unless a
6 13 statute specifically authorizing implementation of the
6 14 system is enacted.>
6 15 #10. Page 18, line 9, by inserting after the word
6 16 <centers> the following: <and providers of mental
6 17 health services to county residents pursuant to a
6 18 waiver approved under section 225C.7, subsection 3,>.
6 19 #11. By renumbering, relettering, or redesignating
6 20 and correcting internal references as necessary.
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6 24 MAGGIE TINSMAN
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6 28 AMANDA RAGAN
6 29 HF 2780.707 81
6 30 jp/gg/6065