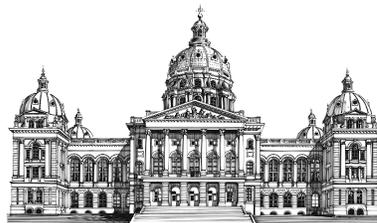


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# Iowa Legislative Fiscal Bureau

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## Assisted Living in Iowa

### ISSUE

This *Issue Review* provides information on Iowa's oversight system for assisted living programs as originally established within the Department of Elder Affairs, and after the transfer of the monitoring and complaint investigation duties to the Department of Inspections and Appeals. In addition, information regarding cost of service, Medicaid coverage, and the affordability of assisted living are provided.

### AFFECTED AGENCIES

Department of Elder Affairs  
Department of Human Services (DHS)  
Department of Inspections and Appeals

### CODE AUTHORITY

Chapter 231C, Code of Iowa  
Chapter 321-27, Iowa Administrative Code

### BACKGROUND

The 1996 General Assembly passed Senate File 454 (1997 Assisted Living Program Act), which established an Assisted Living Program within the Department of Elder Affairs and required the Department to establish, by administrative rule, a system for the certification and monitoring of assisted living programs in Iowa.

On April 19, 2002, the Governor ordered the Department of Inspections and Appeals to assume responsibility for the oversight of Iowa's assisted living programs. On April 26, 2002, the Department of Elder Affairs and the Department of Inspections and Appeals entered into a shared services agreement, pursuant to the authority conferred by Chapter 28E, Code of Iowa, and created a partnership for the certification, monitoring, and complaint investigation of assisted living programs.

## DEFINITION

Assisted living programs are primarily intended for elderly people that do not require institutional nursing care, but need some assistance in order to live independently. Many states, including Iowa, certify assisted living programs as entities that provide housing with some services, which may include supervision, and assistance with activities of daily living, such as bathing, eating, dressing, and other personal services. Licensed nursing services and professional therapies may only be provided on an intermittent or part-time basis.

Assisted living programs in Iowa are not licensed to provide 24-hour nursing services, such as those licensed and regulated under Chapter 135C, Code of Iowa, which reflect a medical, rather than a social model of care. Section 231C.1(b), Code of Iowa, defines assisted living as a social model of care designed to focus on resident independence, dignity, and privacy in a homelike environment.

Assisted living is further defined by Section 231C.2, Code of Iowa, as “a provision of housing with services that may include, but are not limited to, health-related care, personal care, and assistance with instrumental activities of daily living to six or more tenants in a physical structure that provides a homelike environment. Assisted living also includes encouragement of family involvement, tenant self-direction, and tenant participation in decisions that emphasize choice, dignity, privacy, individuality, shared risk, and independence. Assisted living includes the provision of housing and assistance with instrumental activities of daily living only if personal care or health-related care is also included.”

Nationwide, a uniform definition of assisted living has not been established. The types of facilities and services offered as assisted living vary greatly from state to state, and the federal government has not established regulatory standards for assisted living programs as it has for nursing facilities that participate in the federal Medicare Program. Facilities may be housed in a range of settings, including freestanding residential homes or apartment complexes, or divisions within a nursing facility or retirement community.

## CURRENT SITUATION

The oversight of assisted living programs involves certification, monitoring, and conducting complaint investigations. The Department of Elder Affairs and the Department of Inspections and Appeals share these responsibilities under the Chapter 28E agreement.

- **Certification** - The Department of Elder Affairs maintains responsibility for the certification and all necessary enforcement actions involving Iowa assisted living programs, elder group homes, and elder family homes. The Department relies on information from inspections, monitoring activities, and investigations conducted by the Department of Inspections and Appeals when issuing initial certifications and renewals. As of August 6, 2002, there were 151 certified assisted living programs, 10 elder group homes, and no elder family homes in Iowa.

Under administrative rule, the Department of Elder Affairs has the authority to deny, suspend, or revoke a certificate in any case where it is found there has been a substantial or repeated failure on the part of the assisted living program to comply with the requirements of administrative rules. Fines are not levied for non-compliance as part of enforcement.

- **Monitoring and Complaint Investigation** - The Department of Inspections and Appeals is responsible for inspections (including pre-certification and post-certification inspections),

monitoring evaluations, and conducting complaint investigations for assisted living programs, elder group homes, and elder family homes.

When an assisted living program applies for certification, a desk review of the application and blueprint materials is done to ensure compliance with requirements, an on-site review by the Department of Inspections and Appeals is conducted during construction for architectural review, and an inspection by the State Fire Marshal is conducted. After this, the Department of Inspections and Appeals makes a recommendation to the Department of Elder Affairs for certification. Within 60 to 90 days after certification is granted, an on-site monitoring evaluation of the assisted living program is conducted by the Department of Inspections and Appeals. Additional evaluations may occur if necessary to determine progress on a plan of correction, or if a complaint is received. Assisted living programs are also evaluated prior to re-certification.

There are three protocol categories used during a monitoring evaluation in accordance with administrative rules that include interviews with tenants, family, and staff; observation of practices; and records review. After a monitoring evaluation, a report is prepared identifying any regulatory insufficiency as it pertains to a particular rule, or noting no regulatory insufficiencies. Suggestions for quality improvement may also be recommended.

If regulatory insufficiencies are found, an assisted living program must submit a Plan of Correction to the State. After a Plan of Correction is approved, the Department of Inspections and Appeals makes a recommendation regarding certification to the Department of Elder Affairs, and the Department of Elder Affairs makes the final determination regarding certification.

Complaints regarding assisted living programs are accepted by mail, phone, FAX, email, or in-person, and can be made anonymously. The majority of complaints are received via the Toll-Free Complaint Hotline in the Health Facilities Division. Complaint investigations are scheduled within two, ten, or twenty working days based on the impact to the health, safety, and welfare of tenants. If a complaint indicates a tenant's health or safety is in immediate jeopardy, an investigation is initiated immediately. Complaint allegations are investigated for compliance as provided by the administrative rules. A report is completed, and, if necessary, a Plan of Correction must be submitted to the State.

## **FUNDING**

Historically, no General Fund appropriation has been provided for the oversight of assisted living programs. The Department of Elder Affairs funds oversight from revenue generated by established certification and blueprint fees. In FY 2001, the Department of Elder Affairs also began using a portion of Senior Living Program funds for the oversight of assisted living, and received a grant from the Robert Wood Johnson Foundation of \$300,000 over a three-year period for housing and advocacy efforts directed at quality in assisted living, as well as the development of affordable assisted living for low-income seniors.

**Table I** outlines the certification and blueprint fees as established by administrative rule. On August 2, 2002, the balance of the fund that includes certification and blueprint fees was approximately \$176,000, including interest payments. Section 231C.6, Code of Iowa, requires the fees and interest earnings be used only for assisted living purposes and any unexpended funds at the end of a fiscal year remain in the fund. The fees are collected and expended by the Department of Inspections and Appeals.

**Table I**  
**Assisted Living Certification and Blueprint Fees**

| <u>Assisted Living Center</u> | <u>Initial<br/>Two-Year</u> | <u>Renewal<br/>Two-Year</u> | <u>Renewal<br/>Three-Year</u> | <u>Renewal<br/>Four-Year</u> | <u>Blueprint<br/>Fees</u> |
|-------------------------------|-----------------------------|-----------------------------|-------------------------------|------------------------------|---------------------------|
| Small (less than 16 tenants)  | \$ 500                      | \$ 750                      | \$ 750                        | \$ 1,000                     | \$ 500                    |
| Large (16 or more tenants)    | \$ 750                      | \$ 1,000                    | \$ 1,000                      | \$ 1,250                     | \$ 900                    |

In FY 2001, the Department of Elder Affairs used an estimated \$287,000 and 5.4 FTE positions from Senior Living Program funds for assisted living activities. In FY 2002, an estimated \$303,000 and 5.4 FTE positions from Senior Living Program funds were used.

For FY 2003, an estimated \$414,000 and 3.0 FTE positions from Senior Living Program funds will be transferred from the Department of Elder Affairs to the Department of Inspections and Appeals for assisted living purposes as part of the Chapter 28E agreement, and a Section 28D.3 personnel mobility agreement.

In addition, the Department of Inspections and Appeals reports that it will be necessary to contract for 14 additional part-time positions in order to conduct monitoring activities and complaint investigations in FY 2003. Prior to the Chapter 28E agreement, the Department of Elder Affairs contracted with three part-time employees from Merit Resources and had contracts with six Area Agencies on Aging to conduct monitoring activities. These contracts were cancelled in April 2002, when the Chapter 28E agreement went into effect.

### **COST OF SERVICE & MEDICAID COVERAGE**

The cost of assisted living in Iowa varies widely and depends on the size of units, services provided, level and frequency of care needed, and the location of the facility. The Iowa Center for Assisted Living reports that assisted living programs charged average monthly fees ranging from \$1,400 to \$2,598 in 2001, which included rent and most additional fees. Some tenants may have paid more if their care needs were higher or if living in a metropolitan area.

Iowa Medicaid does reimburse personal care services for people in assisted living if the tenant is eligible and meets level of care criteria, but it does not reimburse for room and board costs outside of a medical institution because these are not allowable services to receive federal participation. A Medicaid beneficiary in an assisted living program must pay for room and board costs using Supplemental Security Income (SSI) payments, Supplemental Security Disability Income (SSDI) payments, pensions, retirement funds, and savings.

There are two ways Iowa Medicaid reimburses services for people that are in an assisted living program. First, if a tenant is eligible to receive services under the Elderly Home and Community-based Service Waiver, Medicaid will reimburse the assisted living program or another provider for consumer directed attendant care. These are services that assist the tenant with self-care tasks they would typically do independently if they were able, and are in addition to those services that are part of the contract between the tenant and the assisted living program.

Second, if a tenant needs services provided by a Home Health Agency, Medicaid will reimburse those services. The assisted living program may provide the services if they are also certified by Medicare as a Home Health Agency and enrolled as a Medicaid provider. Otherwise, an outside

certified Home Health Agency may provide services, and again, the services must be beyond any care the assisted living program is required to provide to the tenant under contract terms.

In order to be eligible to receive services under the Elderly Waiver, a tenant must be a resident of Iowa, be eligible for Title XIX, be 65 years of age or older, be certified as needing intermediate or skilled level of care as determined by the Iowa Foundation for Medical Care (IFMC), must receive case management through an Area Agency on Aging, and the total monthly cost for services cannot exceed \$1,052 for nursing level of care.

While Iowa Medicaid will reimburse for some personal care services in assisted living programs, the demand for such reimbursement has not been great. In July 2002, out of 151 assisted living programs in Iowa, there were 32 providing Medicaid services under the Elderly Waiver to 96 clients.

### **AFFORDABLE ASSISTED LIVING EFFORTS**

One of the factors that may contribute to the low number of Medicaid beneficiaries in Iowa assisted living programs is the affordability of assisted living. While some portion of the cost of assisted living is attributable to personal care services that might be reimbursed by Medicaid, a significant part is attributable to the actual room and board components.

Assisted living apartments are eligible residences for Housing and Urban Development (HUD) Section 8 Rental Assistance Vouchers, which can be used to subsidize the cost of rent and assist in relieving the cost burden associated assisted living. The DHS also allocates an estimated \$700,000 in Senior Living Program funds for assisted living rent subsidies. In addition, an increase in assisted living programs that accept third-party payment and other available insurance may result in an increase in the number of Medicaid beneficiaries that can afford assisted living programs.

The NCB Development Corporation (NCBDC) and Robert Wood Johnson Foundation partnered in an effort to facilitate the growth of affordable assisted living options for low-income seniors. The Coming Home Program works with states that are interested in expanding affordable assisted living to seniors living in rural and underserved areas that have annual incomes below \$25,000.

In February 2001, Iowa was one of eight states that received a Coming Home Grant of \$300,000 over a three-year period. As a result, the Department of Elder Affairs began three pilot projects to demonstrate the feasibility of operating high quality, affordable assisted living, including Cedar Place in Story City, Emerson Point Limited Partnership in Iowa City, and Mehaffey Point Limited Partnership in North Liberty. Each project serves elderly clients with low and very-low incomes in underserved areas and receives extensive technical assistance in the areas of pre-development finance and operations.

On July 1, 2002, the Robert Wood Johnson Foundation began contracting with the Iowa Finance Authority for the Coming Home Program rather than the Department of Elder Affairs. A staff person from the Department of Elder Affairs is now located at the Iowa Finance Authority via a Section 28D.3, Code of Iowa, personnel mobility agreement, to oversee affordable assisted living activities. The Iowa Finance Authority continues the development of affordable assisted living in the State and three additional projects have been added, including Oneota Housing, Inc., in Decorah, Allamakee Housing, Inc., in Waukon, and Adel Assisted Living, Inc., in Adel.

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