

House File 2134

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1 3 AN ACT
1 4 RELATING TO THE MEDICAL ASSISTANCE AND STATE SUPPLEMENTARY
1 5 ASSISTANCE PROGRAMS, PROVIDING AN EFFECTIVE DATE, AND
1 6 PROVIDING FOR RETROACTIVE APPLICABILITY.

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1 8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 9
1 10 Section 1. Section 135C.1, subsection 17, Code Supplement
1 11 2003, is amended to read as follows:

1 12 17. "Residential care facility" means any institution,
1 13 place, building, or agency providing for a period exceeding
1 14 twenty-four consecutive hours accommodation, board, personal
1 15 assistance and other essential daily living activities to
1 16 three or more individuals, not related to the administrator or
1 17 owner thereof within the third degree of consanguinity, who by
1 18 reason of illness, disease, or physical or mental infirmity
1 19 are unable to sufficiently or properly care for themselves but
1 20 who do not require the services of a registered or licensed
1 21 practical nurse except on an emergency basis or who by reason
1 22 of illness, disease, or physical or mental infirmity are
1 23 unable to sufficiently or properly care for themselves but who
1 24 do not require the services of a registered or licensed
1 25 practical nurse except on an emergency basis if home and
1 26 community-based services, other than nursing care, as defined
1 27 by this chapter and departmental rule, are provided. For the
1 28 purposes of this definition, the home and community-based
1 29 services to be provided are limited to the type included under
1 30 the medical assistance program provided pursuant to chapter
1 31 249A, are subject to cost limitations established by the
1 32 department of human services under the medical assistance
1 33 program, and except as otherwise provided by the department of
1 34 inspections and appeals with the concurrence of the department
1 35 of human services are limited in capacity to the number of
2 1 licensed residential care facilities and the number of
2 2 licensed residential care facility beds in the state as of
2 3 December 1, 2003.

2 4 Sec. 2. Section 135C.4, Code 2003, is amended to read as
2 5 follows:

2 6 135C.4 RESIDENTIAL CARE FACILITIES.
2 7 Each facility licensed as a residential care facility shall
2 8 provide an organized continuous twenty-four-hour program of
2 9 care commensurate with the needs of the residents of the home
2 10 and under the immediate direction of a person approved and
2 11 certified by the department whose combined training and
2 12 supervised experience is such as to ensure adequate and
2 13 competent care. All admissions to residential care facilities
2 14 shall be based on an order written by a physician certifying
2 15 that the individual being admitted does not require nursing
2 16 services or that the individual's need for nursing services
2 17 can be avoided if home and community-based services, other
2 18 than nursing care, as defined by this chapter and departmental
2 19 rule, are provided. For the purposes of this section, the
2 20 home and community-based services to be provided shall be
2 21 limited to the type included under the medical assistance
2 22 program provided pursuant to chapter 249A, shall be subject to
2 23 cost limitations established by the department of human
2 24 services under the medical assistance program, and except as
2 25 otherwise provided by the department of inspections and
2 26 appeals with the concurrence of the department of human
2 27 services shall be limited in capacity to the number of
2 28 licensed residential care facilities and the number of
2 29 licensed residential care facility beds in the state as of
2 30 December 1, 2003.

2 31 Sec. 3. NEW SECTION. 222.60A COST OF ASSESSMENT.

2 32 Notwithstanding any provision of this chapter to the
2 33 contrary, any amount attributable to any fee assessed pursuant
2 34 to section 249A.21 that would otherwise be the liability of
2 35 any county shall be paid by the state. The department may
3 1 transfer funds from the appropriation for medical assistance
3 2 to pay any amount attributable to any fee assessed pursuant to
3 3 section 249A.21 that is a liability of the state.

3 4 Sec. 4. Section 249.3, Code 2003, is amended by adding the
3 5 following new subsection:

3 6 NEW SUBSECTION. 4. At the discretion of the department,
3 7 persons who meet the criteria listed in all of the following
3 8 paragraphs:
3 9 a. Are either of the following:
3 10 (1) Sixty-five years of age or older.
3 11 (2) Disabled as defined by 42 U.S.C. } 1382c(a)(3), except
3 12 that being engaged in substantial gainful activity shall not
3 13 preclude a determination of disability for the purpose of this
3 14 subparagraph.
3 15 b. Live in one of the following:
3 16 (1) The individual's own home.
3 17 (2) The home of another individual.
3 18 (3) A group living arrangement.
3 19 (4) A medical facility.
3 20 c. Would be eligible for supplemental security income
3 21 benefits but for having excess income or but for being engaged
3 22 in substantial gainful activity and having excess income.
3 23 d. Are not eligible for another state supplementary
3 24 assistance group.
3 25 e. Receive medical assistance under chapter 249A and are
3 26 not required to meet a spend-down or pay a premium to be
3 27 eligible for such benefits.
3 28 f. Is currently eligible for Medicare part B.
3 29 g. Have income exceeding one hundred thirty-five percent
3 30 of the federal poverty level but not exceeding the medical
3 31 assistance income limit for the eligibility group for the
3 32 individual person's living arrangement.
3 33 Sec. 5. Section 249.4, Code 2003, is amended to read as
3 34 follows:

3 35 249.4 APPLICATION == AMOUNT OF GRANT.
4 1 1. Applications for state supplementary assistance shall
4 2 be made in the form and manner prescribed by the director or
4 3 the director's designee, with the approval of the council on
4 4 human services, pursuant to chapter 17A. Each person who so
4 5 applies and is found eligible under section 249.3 shall, so
4 6 long as the person's eligibility continues, receive state
4 7 supplementary assistance on a monthly basis, from funds
4 8 appropriated to the department for the purpose.
4 9 2. Any person who applies within fifteen months from the
4 10 date of implementation of eligibility pursuant to section
4 11 249.3, subsection 4, and who would have been eligible under
4 12 that subsection for any period on or after October 1, 2003,
4 13 may be granted benefits retroactive to October 1, 2003.

4 14 Sec. 6. Section 249A.21, subsection 1, Code 2003, is
4 15 amended to read as follows:
4 16 1. The department may assess intermediate care facilities
4 17 for persons with mental retardation, as defined in section
4 18 135C.1, ~~that are not operated by the state,~~ a fee in an amount
4 19 not to exceed six percent of the total annual revenue of the
4 20 facility for the preceding fiscal year.

4 21 Sec. 7. Section 249A.21, Code 2003, is amended by adding
4 22 the following new subsection:
4 23 NEW SUBSECTION. 6. The department may adopt
4 24 administrative rules under section 17A.4, subsection 2, and
4 25 section 17A.5, subsection 2, paragraph "b", to implement this
4 26 section, and any fee assessed pursuant to this section against
4 27 an intermediate care facility for persons with mental
4 28 retardation that is operated by the state may be made
4 29 retroactive to October 1, 2003.

4 30 Sec. 8. 2003 Iowa Acts, chapter 112, section 4, subsection
4 31 9, is amended to read as follows:

4 32 9. The department may adopt administrative rules under
4 33 section 17A.4, subsection 2, and section 17A.5, subsection 2,
4 34 paragraph "b", to implement this section, and any assessment
4 35 made pursuant to this section may be made retroactive to
5 1 October 1, 2003.

5 2 Sec. 9. WAIVER PAYMENT SLOTS. The department of human
5 3 services shall provide an opportunity for counties to request
5 4 an expansion of the county's home and community-based waiver
5 5 payment slots under the medical assistance program in order to
5 6 add slots to address the changes in the definition of
5 7 "residential care facility" under chapter 135C made by this
5 8 Act. Any expansion in the number of waiver payment slots as
5 9 described in this section shall be implemented on July 1,
5 10 2004, or the date authorized in the federal approval of the
5 11 expansion of the waiver slots, whichever is later.

5 12 Sec. 10. RETROACTIVE APPLICABILITY. The following
5 13 provisions of this Act are retroactively applicable to October
5 14 1, 2003:

5 15 1. The provision creating section 222.60A, relating to the
5 16 costs of the assessment for intermediate care facilities for

5 17 persons with mental retardation.
5 18 2. The provision creating section 249.3, subsection 4,
5 19 relating to state supplementary assistance eligibility.
5 20 3. The provision amending section 249.4, relating to
5 21 applications and amounts of grants for state supplementary
5 22 assistance.
5 23 4. The provision amending section 249A.21, subsection 1,
5 24 and the provision creating section 249A.21, subsection 6,
5 25 relating to the nursing facility quality assurance assessment.
5 26 5. The provision amending 2003 Iowa Acts, chapter 112,
5 27 section 4, subsection 9, relating to the adoption of
5 28 administrative rules relating to the nursing facility quality
5 29 assurance assessment.
5 30 Sec. 11. EFFECTIVE DATE. This Act, being deemed of
5 31 immediate importance, takes effect upon enactment.
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5 35 CHRISTOPHER C. RANTS
6 1 Speaker of the House
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6 4 JEFFREY M. LAMBERTI
6 5 President of the Senate
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6 8 I hereby certify that this bill originated in the House and
6 9 is known as House File 2134, Eightieth General Assembly.
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6 12 MARGARET THOMSON
6 13 Chief Clerk of the House
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6 15 Approved _____, 2004
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6 18 THOMAS J. VILSACK
6 19 Governor
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