

FEB 3 1990

Place On Calendar

HOUSE FILE 2368
BY COMMITTEE ON HUMAN
RESOURCES

(SUCCESSOR TO HSB 603)

Passed House, Date 2/19/90 (p 453) Passed Senate, Date 3/13/90 (p. 1046)
Vote: Ayes 96 Nays 0 Vote: Ayes 43 Nays 4
Approved March 23, 1990

A BILL FOR

1 An Act requiring the department of human services to adopt
2 administrative rules which apply a civil penalty to certain
3 health care facilities reimbursed under the medical assistance
4 program.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF 2368

1 Section 1. NEW SECTION. 249A.19 HEALTH CARE FACILITIES -
2 - PENALTY.

3 The department shall adopt rules pursuant to chapter 17A to
4 assess and collect, with interest, a civil penalty for each
5 day a health care facility which receives medical assistance
6 reimbursements does not comply with the requirements of the
7 federal Social Security Act, § 1919, as codified in 42 U.S.C.
8 § 1396r. A civil penalty shall not exceed the amount
9 authorized under section 135C.36 for health care facility
10 violations. Any moneys collected by the department pursuant
11 to this subsection shall be applied to the protection of the
12 health or property of the residents of the health care
13 facilities which are determined by the state or by the federal
14 health care financing administration to be out of compliance.
15 The purposes for which the collected moneys shall be applied
16 may include payment for the costs of relocation of residents
17 to other facilities, maintenance or operation of a health care
18 facility pending correction of deficiencies or closure of the
19 facility, and reimbursing residents for personal funds lost.
20 If a health care facility is assessed a civil penalty under
21 this section, the health care facility shall not be assessed a
22 penalty under section 135C.36 for the same violation.

23 EXPLANATION

24 This bill requires the department of human services to
25 adopt rules which apply civil penalties to certain health care
26 facilities. A health care facility which receives medical
27 assistance reimbursement which does not comply with certain
28 provisions of the federal Social Security Act is subject to a
29 civil penalty not to exceed the amount applied to health care
30 facilities under chapter 135C. Any moneys collected must be
31 applied to the protection of the health or property of
32 residents of health care facilities found by the state or by
33 the federal health care financing administration to be out of
34 compliance. The bill provides purposes to which the collected
35 penalty moneys may be applied.

HUMAN RESOURCES

Elderly
Harper
Brown
Bier
Hermann
Kistler

HOUSE FILE 2218
BY (PROPOSED DEPARTMENT OF
HUMAN SERVICES BILL)

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act requiring the department of human services to adopt
2 administrative rules which apply administrative penalties to
3 certain health care facilities reimbursed under the medical
4 assistance program.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. NEW SECTION. 249A.19 HEALTH CARE FACILITIES -
2 - PENALTIES.

3 1. The department shall adopt rules pursuant to chapter
4 17A to assess and collect, with interest, an administrative
5 penalty for each day a health care facility which receives
6 medical assistance reimbursements does not comply with the
7 requirements of the federal Social Security Act, § 1919, as
8 codified in 42 U.S.C. § 1396r. An administrative penalty
9 shall not exceed the amount authorized under section 135C.36
10 for health care facility violations. Any moneys collected by
11 the department pursuant to this subsection shall be applied to
12 the protection of the health or property of the residents of
13 the health care facilities which are determined to be out of
14 compliance.

15 2. The department shall adopt rules pursuant to chapter
16 17A to assess and collect an administrative penalty from a
17 person who notifies, or causes to be notified, a health care
18 facility which receives medical assistance reimbursements of
19 the time or date on which a survey or on-site inspection of
20 the facility is scheduled. The amount of the administrative
21 penalty shall not exceed two thousand dollars. Any money
22 collected by the department pursuant to this subsection shall
23 be applied to the administrative costs of enforcement of this
24 subsection.

25 EXPLANATION

26 This bill requires the department of human services to
27 adopt rules which apply administrative penalties to certain
28 health care facilities. A health care facility which receives
29 medical assistance reimbursement which does not comply with
30 certain provisions of the federal Social Security Act is
31 subject to an administrative penalty not to exceed the amount
32 applied to health care facilities under chapter 135C. Any
33 moneys collected must be applied to the protection of the
34 health or property of residents of the health care facilities
35 found to be out of compliance.

1 A person who notifies, or causes to be notified, a health
2 care facility which receives medical assistance reimbursement
3 of the time or date on which a survey or on-site inspection of
4 the facility is scheduled may be subject to an administrative
5 penalty of not more than \$2,000. Any moneys collected must be
6 applied against administrative costs of enforcing the
7 provision.

8 BACKGROUND STATEMENT

9 SUBMITTED BY THE AGENCY

10 The federal Omnibus Budget Reconciliation Act of 1987
11 amended the Social Security Act by revising the current
12 federal law regarding the enforcement of compliance provisions
13 for nursing facilities participating under the medical
14 assistance program.

15 Federal law, codified in 42 U.S.C. § 1396r, requires the
16 state to establish, by law, remedies for nursing facilities
17 that do not meet the requirements of participation. Remedies
18 need to be designed to result in faster correction of
19 deficiencies and ensure the health and safety of residents of
20 nursing facilities. The state must impose these remedies for
21 nursing facilities that are not owned by the state or those
22 found noncompliant by the federal health care financing
23 administration's validation process. Currently there is no
24 provision in Iowa law to assess civil fines for violations of
25 the requirements. The federal statute does not give specifics
26 regarding amount of fines for states. In order to assess
27 civil fines, chapter 249A must be amended.

28 In addition, the federal law requires that any individual
29 who notifies, or causes to be notified, a nursing facility of
30 the time or date on which a survey is scheduled to be
31 conducted shall be subject to a fine not to exceed \$2,000.
32 The department of human services needs statutory authority to
33 impose this sanction. Senate File 31, section 5, passed in
34 1989, addresses this, but may not be sufficient. In order to
35 assess civil fines, chapter 249A must be amended.

LSB 7315HD 73

If a health care facility is assessed a civil penalty under this section, the health care facility shall not be assessed a penalty under section 135C.36 for the same violation.

HOUSE FILE 2368

AN ACT

REQUIRING THE DEPARTMENT OF HUMAN SERVICES TO ADOPT ADMINISTRATIVE RULES WHICH APPLY A CIVIL PENALTY TO CERTAIN HEALTH CARE FACILITIES REIMBURSED UNDER THE MEDICAL ASSISTANCE PROGRAM.

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

Section 1. NEW SECTION. 249A.19 HEALTH CARE FACILITIES -
- PENALTY.

The department shall adopt rules pursuant to chapter 17A to assess and collect, with interest, a civil penalty for each day a health care facility which receives medical assistance reimbursements does not comply with the requirements of the federal Social Security Act, § 1919, as codified in 42 U.S.C. § 1396r. A civil penalty shall not exceed the amount authorized under section 135C.36 for health care facility violations. Any moneys collected by the department pursuant to this subsection shall be applied to the protection of the health or property of the residents of the health care facilities which are determined by the state or by the federal health care financing administration to be out of compliance. The purposes for which the collected moneys shall be applied may include payment for the costs of relocation of residents to other facilities, maintenance or operation of a health care facility pending correction of deficiencies or closure of the facility, and reimbursing residents for personal funds lost.

DONALD D. AVENSON
Speaker of the House

JO ANN ZIMMERMAN
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 2368, Seventy-third General Assembly.

JOSEPH O'HERN
Chief Clerk of the House

Approved *March 23, 1990*

TERRY E. BRANSTAD
Governor