

Sen. Hansen Review - 3/26 256 4/4/91

SENATE FILE 343
BY COMMITTEE ON HUMAN RESOURCES

(SUCCESSOR TO SSB 76)

Passed Senate, Date 3/25/91 (p. 837) Passed House, Date 4/22/91 (p. 1427)
Vote: Ayes 49 Nays 0 Vote: Ayes 97 Nays 0
Approved May 10, 1991 (p. 1249)

A BILL FOR

1 An Act relating to the medical assistance program.
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23

SSB 343

1 Section 1. Section 249A.2, Code 1991, is amended by adding
2 the following new subsection:

3 NEW SUBSECTION. 5A. "Group health plan cost sharing"
4 means payment under the medical assistance program of a
5 premium, a coinsurance amount, a deductible amount, or any
6 other cost sharing obligation for a group health plan as
7 required by Title XIX of the federal Social Security Act,
8 section 1906.

9 Sec. 2. Section 249A.2, subsection 7, Code 1991, is
10 amended to read as follows:

11 7. "Medicare cost-sharing cost sharing" means payment
12 under the medical assistance program of a premium, a
13 coinsurance amount, or a deductible amount for federal
14 medicare as required provided by Title XIX of the federal
15 Social Security Act, section 1905(p)(3), as codified in 42
16 U.S.C. § 1396d(p)(3).

17 Sec. 3. Section 249A.3, subsection 8, Code 1991, is
18 amended to read as follows:

19 8. Medicare cost sharing shall be provided to or on behalf
20 of an individual who is a resident of the state or a resident
21 who is temporarily absent from the state and who is either a
22 qualified medicare beneficiary as defined under Title XIX of
23 the federal Social Security Act, section 1905(p)(1), as
24 codified in 42 U.S.C. § 1396d(p)(1) or a qualified disabled
25 and working person as defined under Title XIX of the federal
26 Social Security Act, section 1905(s), as codified in 42 U.S.C.
27 § 1396d(s).

28 Sec. 4. Section 249A.3, Code 1991, is amended by adding
29 the following new subsection:

30 NEW SUBSECTION. 10. Group health plan cost sharing shall
31 be provided as required by Title XIX of the federal Social
32 Security Act, section 1906.

33 Sec. 5. Section 249A.4, Code 1991, is amended by adding
34 the following new subsection:

35 NEW SUBSECTION. 14. In implementing subsection 9,

1 relating to reimbursement for medical and health services
 2 under this chapter, when a selected out-of-state acute care
 3 hospital facility is involved, a contractual arrangement may
 4 be developed with the out-of-state facility that is in
 5 accordance with the requirements of Titles XVIII and XIX of
 6 the federal Social Security Act. The contractual arrangement
 7 is not subject to other reimbursement standards, policies, and
 8 rate setting procedures required under this chapter.

H-3642

9 Sec. 6. Section 249B.1, subsection 6, Code 1991, is
 10 amended to read as follows:

11 6. "Medical assistance" means "medical assistance",
 12 "additional medical assistance", "discretionary medical
 13 assistance" or "medicare ~~cost-sharing~~ cost sharing" as defined
 14 in section 249A.2 which is provided to an individual pursuant
 15 to chapter 249A and Title XIX of the federal Social Security
 16 Act.

17 Sec. 7. Section 421.38, subsection 1, Code 1991, is
 18 amended to read as follows:

19 1. Three months limit. A claim shall not be allowed by
 20 the department of revenue and finance if the claim is
 21 presented after the lapse of three months from its accrual.
 22 However, ~~claims~~ this time limit is subject to the following
 23 exceptions:

24 a. Claims by state employees for benefits pursuant to
 25 chapters 85, 85A, and 86 are subject to limitations provided
 26 in those chapters.

27 b. Claims for medical assistance payments authorized under
 28 chapter 249A are subject to the time limits imposed by rule
 29 adopted by the department.

H-3642

30

EXPLANATION

31 This bill relates to the medical assistance program.

32 Technical corrections are made to remove the hyphen from
 33 the term "cost sharing". The term "group health plan cost" is
 34 defined and included as a medical assistance program
 35 requirement in accordance with federal law. The provision

1 requires medical assistance to be provided by the state paying
2 all or part of the cost of private health insurance coverage
3 in accordance with the federal requirements.

4 An exception is established relating to requirements for
5 reimbursement of service providers. The director of the
6 department of human services may establish contractual
7 arrangements with selected out-of-state acute care hospital
8 facilities. The arrangements must meet federal requirements
9 but are not subject to state requirements for reimbursement.

10 An exception is established relating to the three-month
11 time limit authorized for the director of the department of
12 revenue and finance to pay claims against the state. Claims
13 relating to medical assistance are made subject to rules
14 establishing time limits adopted by the department of human
15 services.

16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35

SENATE FILE 343

H-3642

1 Amend Senate File 343, as passed by the Senate, as
2 follows:

3 1. Page 2, by inserting after line 8 the
4 following:

5 "Sec. ____ . NEW SECTION. 249A.20 ENHANCED MENTAL
6 HEALTH, MENTAL RETARDATION, AND DEVELOPMENTAL
7 DISABILITIES SERVICES PLAN OVERSIGHT COMMITTEE.

8 1. For purposes of this section and section
9 249A.21, "oversight committee" means the enhanced
10 mental health, mental retardation, and developmental
11 disabilities services plan oversight committee and
12 "candidate service" means day treatment, partial
13 hospitalization, and case management. Case management
14 is limited to persons with mental retardation, a
15 developmental disability, or chronic mental illness.

16 2. An enhanced mental health, mental retardation,
17 and developmental disabilities services plan oversight
18 committee is created in the department to assure that
19 the services plan is implemented within identified,
20 budgeted, and appropriated funds.

21 3. The oversight committee shall have nine
22 members. Two members shall be designated by the
23 fiscal committee of the legislative council and are
24 subject to approval by the governor. The director of
25 human services and the administrator of the division
26 of mental health, mental retardation, and
27 developmental disabilities or their designees shall be
28 members. Three members shall be designated by the
29 Iowa state association of counties. One member shall
30 be designated by the state mental health and mental
31 retardation commission. One member shall be
32 designated by the governor's planning council on
33 developmental disabilities. Members shall serve
34 staggered three-year terms and vacancies shall be
35 filled in the same manner as the initial appointment.
36 Members are entitled to actual and necessary expenses.

37 4. The oversight committee shall do all of the
38 following:

39 a. Take action on whether to include behavior
40 management as a candidate service in the state medical
41 assistance plan amendment, to develop a federal waiver
42 request for behavior management as a candidate
43 service, or to take no action to include behavior
44 management as a covered service. Decisions shall be
45 based upon a determination of the availability of
46 funds for the nonfederal share of the cost of the
47 service.

48 b. Explore and make recommendations regarding the
49 submission to the federal government of a state
50 medical assistance plan waiver for any candidate

H-3642

Page 2

1 services which are not accepted by the federal
2 government as a state medical assistance plan
3 amendment.

4 c. Explore and make recommendations regarding the
5 submission to the federal government of a state
6 medical assistance plan waiver for any services
7 provided to persons with mental retardation, a
8 developmental disability, or chronic mental illness.

9 d. Review and make recommendations regarding the
10 county case management implementation plan and budget
11 to the state mental health and mental retardation
12 commission.

13 e. Track the expenditures for, and utilization of,
14 candidate services. Report a variance in an approved
15 plan to the governor, the legislative fiscal bureau,
16 and each county.

17 f. Recommend action regarding variations from the
18 budgeted, appropriated, and identified expenditures
19 and projected expenditure offsets to the council on
20 human services and the state mental health and mental
21 retardation commission.

22 g. Submit a report regarding the results of the
23 implementation of the provisions of this section,
24 including the impact upon the institutional
25 populations, to the governor and the general assembly.
26 The report shall contain recommendations regarding
27 continuing the provisions of this section in
28 subsequent fiscal years.

29 h. Recommend rules, or amendments to existing
30 rules, which implement the provisions of this section,
31 to the council on human services and the state mental
32 health and mental retardation commission.

33 i. Develop a methodology to determine the base
34 year expenditure for a county maintenance of effort
35 established pursuant to section 249A.21 which includes
36 an amount for each of the candidate services.

37 j. Issue a final advisory decision regarding any
38 issue of disagreement between a county and the
39 department relating to expenditures for candidate
40 services or the county's maintenance of effort.

41 Sec. ____ . NEW SECTION. 249A.21 CANDIDATE
42 SERVICES FUND.

43 1. A state candidate services fund is created in
44 the office of the treasurer of state under the
45 authority of the department. The fund shall consist
46 of moneys appropriated to the fund and moneys received
47 from counties pursuant to this section.
48 Notwithstanding section 8.33, moneys in the candidate
49 services fund which are unobligated or unexpended on
50 June 30 of any fiscal year shall not revert to the

H-3642

Page 3

1 general fund of the state but shall remain in the
2 candidate services fund and be used for the purposes
3 of this section. Any interest or other earnings on
4 the moneys in the candidate services fund shall remain
5 in the candidate services fund and shall be used for
6 the purposes of this section.

7 2. The county of legal settlement shall be billed
8 for fifty percent of the nonfederal share of the cost
9 of case management provided to adults, day treatment,
10 and partial hospitalization provided under the medical
11 assistance program for persons with mental
12 retardation, a developmental disability, or chronic
13 mental illness. For purposes of this section, chronic
14 mental illness does not include organic mental
15 disorders.

16 3. If a county's expenditures for candidate
17 services provided to persons with mental retardation,
18 a developmental disability, or chronic mental illness
19 exceeds the county's base year expenditure amount for
20 these services established under 1988 Iowa Acts,
21 chapter 1276, section 14, the county shall receive
22 from the candidate services fund the least amount of
23 the following:

24 a. The difference between the county's total
25 expenditures for the candidate services in the fiscal
26 year and the base year expenditure amount.

27 b. The amount expended by the county under
28 subsection 2.

29 c. The amount by which the total expenditures for
30 persons with mental retardation, a developmental
31 disability, or chronic mental illness for a fiscal
32 year, exceeds the maintenance of effort expenditures
33 established under 1988 Iowa Acts, chapter 1276,
34 subsection 14.

35 Sec. ____ . NEW SECTION. 249A.22 INDEMNITY FOR
36 CASE MANAGEMENT AND DISALLOWED COSTS.

37 1. If the department contracts with a county or
38 consortium of counties to provide case management
39 services funded under medical assistance, the state
40 shall appear and defend the department's employees and
41 agents acting in an official capacity on the
42 department's behalf and the state shall indemnify the
43 employees and agents for acts within the scope of
44 their employment. The state's duties to defend and
45 indemnify shall not apply if the conduct upon which
46 any claim is based constitutes a willful and wanton
47 act or omission or malfeasance in office.

48 2. If the department is the case management
49 contractor, the state shall be responsible for any
50 costs included within the unit rate for case

H-3642

Page 4

1 management services which are disallowed for medical
 2 assistance reimbursement by the federal health care
 3 financing administration. The contracting county
 4 shall be credited for the county's share of any
 5 amounts overpaid due to the disallowed costs.
 6 However, if certain costs are disallowed due to
 7 requirements or preferences of a particular county in
 8 the provision of case management services, the county
 9 shall not receive credit for the amount of the costs."

10 2. Page 2, by inserting after line 29 the
 11 following:

12 "Sec. ____ . LEGISLATIVE INTENT. Nothing in this
 13 Act is intended by the general assembly to be the
 14 provision of a fair and equitable funding formula
 15 specified in 1985 Iowa Acts, chapter 249, section 9.
 16 Nothing in this Act shall be construed, is intended,
 17 or shall imply a claim of entitlement to any programs
 18 or services specified in section 225C.28."

19 3. By renumbering as necessary.

By MERTZ of Kossuth

DICKINSON of Jackson

ROYER of Page

MUHLBAUER of Crawford

H-3642 FILED APRIL 15, 1991

Adopted 4/22/91 (p. 1427)

SENATE FILE 343

H-3644

1 Amend Senate File 343, as passed by the Senate, as
 2 follows:

3 1. Page 1, line 8, by inserting after the figure
 4 "1906" the following: ", as codified in 42 U.S.C. §
 5 1396e".

6 2. Page 1, line 32, by inserting after the figure
 7 "1906" the following: ", as codified in 42 U.S.C. §
 8 1396e".

By GRUBBS of Scott

H-3644 FILED APRIL 16, 1991

Adopted 4/22/91 (p. 1424)

SENATE FILE 343

H-3717

1 Amend amendment, H-3642, to Senate File 343, as
 2 passed by the Senate, as follows:

3 1. Page 2, line 8, by inserting after the word
 4 "illness" the following: ", and review and make
 5 recommendations regarding any federal waiver proposal
 6 involving services provided to persons with mental
 7 retardation, a developmental disability, or mental
 8 illness".

9 2. Page 2, by inserting after line 40 the
 10 following:

11 " ____ . If appropriate, work with the mental health
 12 and mental retardation commission established in
 13 section 225C.5 and the medical assistance advisory
 14 council created pursuant to section 249A.4."

15 3. By relettering as necessary.

By GRUBBS of Scott

H-3717 FILED APRIL 18, 1991

Adopted 4/22/91 (p. 1427)

HOUSE AMENDMENT TO
SENATE FILE 343

S-3551

1 Amend Senate File 343, as passed by the Senate, as
2 follows:

3 1. Page 1, line 8, by inserting after the figure
4 "1906" the following: ", as codified in 42 U.S.C. §
5 1396e".

6 2. Page 1, line 32, by inserting after the figure
7 "1906" the following: ", as codified in 42 U.S.C. §
8 1396e".

9 3. Page 2, by inserting after line 8 the
10 following:

11 "Sec. ____ . NEW SECTION. 249A.20 ENHANCED MENTAL
12 HEALTH, MENTAL RETARDATION, AND DEVELOPMENTAL
13 DISABILITIES SERVICES PLAN OVERSIGHT COMMITTEE.

14 1. For purposes of this section and section
15 249A.21, "oversight committee" means the enhanced
16 mental health, mental retardation, and developmental
17 disabilities services plan oversight committee and
18 "candidate service" means day treatment, partial
19 hospitalization, and case management. Case management
20 is limited to persons with mental retardation, a
21 developmental disability, or chronic mental illness.

22 2. An enhanced mental health, mental retardation,
23 and developmental disabilities services plan oversight
24 committee is created in the department to assure that
25 the services plan is implemented within identified,
26 budgeted, and appropriated funds.

27 3. The oversight committee shall have nine
28 members. Two members shall be designated by the
29 fiscal committee of the legislative council and are
30 subject to approval by the governor. The director of
31 human services and the administrator of the division
32 of mental health, mental retardation, and
33 developmental disabilities or their designees shall be
34 members. Three members shall be designated by the
35 Iowa state association of counties. One member shall
36 be designated by the state mental health and mental
37 retardation commission. One member shall be
38 designated by the governor's planning council on
39 developmental disabilities. Members shall serve
40 staggered three-year terms and vacancies shall be
41 filled in the same manner as the initial appointment.
42 Members are entitled to actual and necessary expenses.

43 4. The oversight committee shall do all of the
44 following:

45 a. Take action on whether to include behavior
46 management as a candidate service in the state medical
47 assistance plan amendment, to develop a federal waiver
48 request for behavior management as a candidate
49 service, or to take no action to include behavior
50 management as a covered service. Decisions shall be

S-3551

Page 2

1 based upon a determination of the availability of
2 funds for the nonfederal share of the cost of the
3 service.

4 b. Explore and make recommendations regarding the
5 submission to the federal government of a state
6 medical assistance plan waiver for any candidate
7 services which are not accepted by the federal
8 government as a state medical assistance plan
9 amendment.

10 c. Explore and make recommendations regarding the
11 submission to the federal government of a state
12 medical assistance plan waiver for any services
13 provided to persons with mental retardation, a
14 developmental disability, or chronic mental illness.

15 d. Review and make recommendations regarding the
16 county case management implementation plan and budget
17 to the state mental health and mental retardation
18 commission.

19 e. Track the expenditures for, and utilization of,
20 candidate services. Report a variance in an approved
21 plan to the governor, the legislative fiscal bureau,
22 and each county.

23 f. Recommend action regarding variations from the
24 budgeted, appropriated, and identified expenditures
25 and projected expenditure offsets to the council on
26 human services and the state mental health and mental
27 retardation commission.

28 g. Submit a report regarding the results of the
29 implementation of the provisions of this section,
30 including the impact upon the institutional
31 populations, to the governor and the general assembly.
32 The report shall contain recommendations regarding
33 continuing the provisions of this section in
34 subsequent fiscal years.

35 h. Recommend rules, or amendments to existing
36 rules, which implement the provisions of this section,
37 to the council on human services and the state mental
38 health and mental retardation commission.

39 i. Develop a methodology to determine the base
40 year expenditure for a county maintenance of effort
41 established pursuant to section 249A.21 which includes
42 an amount for each of the candidate services.

43 j. Issue a final advisory decision regarding any
44 issue of disagreement between a county and the
45 department relating to expenditures for candidate
46 services or the county's maintenance of effort.

47 Sec. . NEW SECTION. 249A.21 CANDIDATE
48 SERVICES FUND.

49 1. A state candidate services fund is created in
50 the office of the treasurer of state under the

S-3551

Page 3

1 authority of the department. The fund shall consist
2 of moneys appropriated to the fund and moneys received
3 from counties pursuant to this section.
4 Notwithstanding section 8.33, moneys in the candidate
5 services fund which are unobligated or unexpended on
6 June 30 of any fiscal year shall not revert to the
7 general fund of the state but shall remain in the
8 candidate services fund and be used for the purposes
9 of this section. Any interest or other earnings on
10 the moneys in the candidate services fund shall remain
11 in the candidate services fund and shall be used for
12 the purposes of this section.

13 2. The county of legal settlement shall be billed
14 for fifty percent of the nonfederal share of the cost
15 of case management provided to adults, day treatment,
16 and partial hospitalization provided under the medical
17 assistance program for persons with mental
18 retardation, a developmental disability, or chronic
19 mental illness. For purposes of this section, chronic
20 mental illness does not include organic mental
21 disorders.

22 3. If a county's expenditures for candidate
23 services provided to persons with mental retardation,
24 a developmental disability, or chronic mental illness
25 exceeds the county's base year expenditure amount for
26 these services established under 1988 Iowa Acts,
27 chapter 1276, section 14, the county shall receive
28 from the candidate services fund the least amount of
29 the following:

30 a. The difference between the county's total
31 expenditures for the candidate services in the fiscal
32 year and the base year expenditure amount.

33 b. The amount expended by the county under
34 subsection 2.

35 c. The amount by which the total expenditures for
36 persons with mental retardation, a developmental
37 disability, or chronic mental illness for a fiscal
38 year, exceeds the maintenance of effort expenditures
39 established under 1988 Iowa Acts, chapter 1276,
40 subsection 14.

41 Sec. ____ . NEW SECTION. 249A.22 INDEMNITY FOR
42 CASE MANAGEMENT AND DISALLOWED COSTS.

43 1. If the department contracts with a county or
44 consortium of counties to provide case management
45 services funded under medical assistance, the state
46 shall appear and defend the department's employees and
47 agents acting in an official capacity on the
48 department's behalf and the state shall indemnify the
49 employees and agents for acts within the scope of
50 their employment. The state's duties to defend and

S-3551

Page 4

1 indemnify shall not apply if the conduct upon which
2 any claim is based constitutes a willful and wanton
3 act or omission or malfeasance in office.

4 2. If the department is the case management
5 contractor, the state shall be responsible for any
6 costs included within the unit rate for case
7 management services which are disallowed for medical
8 assistance reimbursement by the federal health care
9 financing administration. The contracting county
10 shall be credited for the county's share of any
11 amounts overpaid due to the disallowed costs.
12 However, if certain costs are disallowed due to
13 requirements or preferences of a particular county in
14 the provision of case management services, the county
15 shall not receive credit for the amount of the costs."

16 4. Page 2, by inserting after line 29 the
17 following:

18 "Sec. ____ . LEGISLATIVE INTENT. Nothing in this
19 Act is intended by the general assembly to be the
20 provision of a fair and equitable funding formula
21 specified in 1985 Iowa Acts, chapter 249, section 9.
22 Nothing in this Act shall be construed, is intended,
23 or shall imply a claim of entitlement to any programs
24 or services specified in section 225C.28."

25 5. By renumbering, relettering, or redesignating
26 and correcting internal references as necessary.

RECEIVED FROM THE HOUSE

S-3551 FILED APRIL 24, 1991

SZYMONIAK, CH.
SURGEON
HAGERLA

SSB 76
Human Resources

SENATE/HOUSE FILE 343
BY (PROPOSED DEPARTMENT OF
HUMAN SERVICES BILL)

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

A BILL FOR

1 An Act relating to the medical assistance program.
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

1 Section 1. Section 249A.2, Code 1991, is amended by adding
2 the following new subsection:

3 NEW SUBSECTION. 5A. "Group health plan cost sharing"
4 means payment under the medical assistance program of a
5 premium, a coinsurance amount, a deductible amount, or any
6 other cost sharing obligation for a group health plan as
7 required by Title XIX of the federal Social Security Act,
8 section 1906.

9 Sec. 2. Section 249A.2, subsection 7, Code 1991, is
10 amended to read as follows:

11 7. "Medicare cost-sharing cost sharing" means payment
12 under the medical assistance program of a premium, a
13 coinsurance amount, or a deductible amount for federal
14 medicare as required provided by Title XIX of the federal
15 Social Security Act, section 1905(p)(3), as codified in 42
16 U.S.C. § 1396d(p)(3).

17 Sec. 3. Section 249A.3, subsection 8, Code 1991, is
18 amended to read as follows:

19 8. Medicare cost sharing shall be provided to or on behalf
20 of an individual who is a resident of the state or a resident
21 who is temporarily absent from the state and who is either a
22 qualified medicare beneficiary as defined under Title XIX of
23 the federal Social Security Act, section 1905(p)(1), as
24 codified in 42 U.S.C. § 1396d(p)(1) or a qualified disabled
25 and working person as defined under Title XIX of the federal
26 Social Security Act, section 1905(s), as codified in 42 U.S.C.
27 § 1396d(s).

28 Sec. 4. Section 249A.3, Code 1991, is amended by adding
29 the following new subsection:

30 NEW SUBSECTION. 10. Group health plan cost sharing shall
31 be provided as required by Title XIX of the federal Social
32 Security Act, section 1906.

33 Sec. 5. Section 249A.4, Code 1991, is amended by adding
34 the following new subsection:

35 NEW SUBSECTION. 14. In implementing subsection 9,

1 relating to reimbursement for medical and health services
2 under this chapter, when a selected out-of-state acute care
3 hospital facility is involved, a contractual arrangement may
4 be developed with the out-of-state facility that is in
5 accordance with the requirements of Titles XVIII and XIX of
6 the federal Social Security Act. The contractual arrangement
7 is not subject to other reimbursement standards, policies, and
8 rate setting procedures required under this chapter.

9 Sec. 6. Section 249A.6, subsection 4, Code 1991, is
10 amended to read as follows:

11 4. If a recipient of assistance through the medical
12 assistance program incurs the obligation to pay attorney fees
13 and court costs for the purpose of enforcing a monetary claim
14 to which the department is subrogated under this section, upon
15 the receipt of a judgment or settlement of the claim, the
16 court costs and reasonable attorney fees shall first be
17 deducted from the judgment or settlement. ~~One-third-of-the~~
18 ~~remaining-balance-shall-then-be-deducted-and-paid-to-the~~
19 ~~recipient.~~ From the remaining balance, the claim of the
20 department shall be paid. Any amount remaining shall be paid
21 to the recipient. An attorney acting on behalf of a recipient
22 of medical assistance for the purpose of enforcing a claim to
23 which the department is subrogated shall not collect from the
24 recipient any amount as attorney fees which is in excess of
25 the amount which the attorney customarily would collect on
26 claims not subject to this section.

27 Sec. 7. Section 249A.12, Code 1991, is amended by adding
28 the following new subsection:

29 NEW SUBSECTION. 3. If a recipient has mental retardation
30 and is receiving care which is reimbursed under a federally
31 approved home and community-based services waiver but would
32 otherwise be approved for care in an intermediate care
33 facility for the mentally retarded, the county shall reimburse
34 the department on a monthly basis for the portion of the
35 recipient's cost of care which is not paid from federal funds.

1 The department shall process reimbursements received under
2 this subsection in the same manner as reimbursements received
3 pursuant to subsection 2.

4 Sec. 8. Section 249B.1, subsection 6, Code 1991, is
5 amended to read as follows:

6 6. "Medical assistance" means "medical assistance",
7 "additional medical assistance", "discretionary medical
8 assistance" or "~~medicare cost-sharing~~ cost sharing" as defined
9 in section 249A.2 which is provided to an individual pursuant
10 to chapter 249A and Title XIX of the federal Social Security
11 Act.

12 Sec. 9. Section 421.38, subsection 1, Code 1991, is
13 amended to read as follows:

14 1. Three months limit. A claim shall not be allowed by
15 the department of revenue and finance if the claim is
16 presented after the lapse of three months from its accrual.
17 However, claims this time limit is subject to the following
18 exceptions:

19 a. Claims by state employees for benefits pursuant to
20 chapters 85, 85A, and 86 are subject to limitations provided
21 in those chapters.

22 b. Claims for medical assistance payments authorized under
23 chapter 249A are subject to the time limits imposed by rule
24 adopted by the department.

25 EXPLANATION

26 This bill relates to the medical assistance program.

27 Technical corrections are made to remove the hyphen from
28 the term "cost sharing". The term "group health plan cost" is
29 defined and included as a medical assistance program
30 requirement in accordance with federal law. The provision
31 requires medical assistance to be provided by the state paying
32 all or part of the cost of private health insurance coverage
33 in accordance with the federal requirements.

34 An exception is established relating to requirements for
35 reimbursement of service providers. The director of the

1 department of human services may establish contractual
2 arrangements with selected out-of-state acute care hospital
3 facilities. The arrangements must meet federal requirements
4 but are not subject to state requirements for reimbursement.

5 A provision is stricken which reserves, for the recipient
6 of medical assistance, a portion of a judgment or settlement
7 to which the department is subrogated before the department is
8 fully reimbursed for medical assistance payments.

9 When a recipient of medical assistance has mental
10 retardation and is receiving care reimbursed under a federally
11 approved home and community-based waiver but would otherwise
12 be approved for care in an intermediate care facility for the
13 mentally retarded, the county must reimburse the state for the
14 nonfederal portion of the cost of care. This provision may
15 constitute a state mandate as defined in chapter 25B.

16 An exception is established relating to the three-month
17 time limit authorized for the director of the department of
18 revenue and finance to pay claims against the state. Claims
19 relating to medical assistance are made subject to rules
20 establishing time limits adopted by the department of human
21 services.

22 BACKGROUND STATEMENT

23 SUBMITTED BY THE AGENCY

24 This bill contains a variety of provisions related to the
25 state-federal medical assistance program. An addition to the
26 Iowa Code is necessary to add a new coverage group: Qualified
27 Disabled and Working Persons. The federal Omnibus Budget
28 Reconciliation Act (OBRA) of 1989, section 6407(d) mandates
29 effective July 1, 1990, that medical assistance pay Medicare
30 Part A premiums for qualified disabled and working persons.
31 This new coverage group was implemented July 1, 1990. By
32 changing the Iowa Code Iowa will be in compliance with federal
33 law and the Code would support the administrative rules.

34 Under Iowa Code section 249A.4, subsection 9, the
35 department is given the authority to determine the method and

1 level of reimbursement for all medical and health services
2 referred to in section 249A.2, subsections 5 and 6. When Iowa
3 Medicaid patients choose to utilize providers who are not
4 within the state, rates calculated for the provision of those
5 services should not be determined using the same basis as with
6 in-state providers.

7 The rate-setting mechanism that currently exists computes
8 payments we consider to be too high for these out-of-state
9 facilities. Out-of-state facilities do not operate under the
10 same cost containment elements that Iowa hospitals do and, as
11 a result, have very different costs associated with the
12 provision of services. The department has very little control
13 over the costs associated with out-of-state facilities.
14 Therefore, the state wishes to contract with these hospitals
15 (as well as the possibility of contracting with other border
16 hospitals) for the provision of health services at an agreed
17 upon price for our Medicaid clients. We believe that this
18 contracting would result in rates being more competitive in
19 the Nebraska border area, thereby saving money for the
20 Medicaid program.

21 Under Iowa Code 249A.6, the department has the right of
22 subrogation against third parties to recover money the
23 department has spent under Medicaid for medical assistance
24 paid on behalf of injured recipients. This has been a very
25 successful practice.

26 However, action is required to bring Iowa law into
27 conformance with federal statute.

28 Another issue relates to county participation in payment
29 for federally waived home and community-based services (HCBS)
30 for individuals who could otherwise be cared for in
31 intermediate care facilities for the mentally retarded
32 (ICF/MR).

33 The Iowa Code should be clarified to make it evident that
34 the counties are responsible for HCBS which can keep retarded
35 individuals out of ICF/MR settings. County responsibility to

1 pay the nonfederal share of the cost of ICF/MR care is in
2 chapter 249A, therefore the cost of HCBS should also be in the
3 Code.

4 The appropriations Act which authorized the Department of
5 Human Services to implement a HCBS program (Senate File 2351,
6 1984) stated that counties are responsible for the cost of
7 care for mentally ill and mentally retarded individuals based
8 on the fact that the county is responsible for these people if
9 they are in a state institution or ICF/MR. Since the HCBS
10 program does not serve clients who would otherwise be in state
11 institutions for the mentally ill, the recommended change to
12 the Code addresses only clients who would be in ICF/MR
13 facilities. The department has submitted this Code revision
14 for the past several years.

15 Additional waivers for mentally retarded clients are being
16 considered and the clients targeted by such waivers would be
17 individuals leaving institutions. Without the section of the
18 Code clarified, it is likely that counties will continue to
19 resist payments for the nonfederal share of waiver services
20 designed to reduce the number of people in ICF/MR facilities.

21 Federal regulations allow Medicaid claims payments up to 12
22 months from the date of service. Extensions to this are
23 allowed for third-party liability claims, Medicare involved
24 claims, retroactive eligibility claims, and court ordered or
25 hearing decision claims.

26 Failure to enact this change will cause delays in Medicaid
27 payments to Medicaid providers, clients, county departments
28 and any other agencies who would potentially receive a
29 Medicaid payment. Any claims exceeding the three-month time
30 limit would have to be submitted to the State Appeals Board
31 for approval for payment.

32 An addition to the Iowa Code is necessary to provide for
33 payment of group health plan cost sharing under the Medicaid
34 program.

35 The Omnibus Budget Reconciliation Act (OBRA) of 1990, adds

1 new section 1906 to the Social Security Act. This new section
2 mandates the state to implement guidelines, as established by
3 the secretary, to identify those cases in which enrollment of
4 an individual, otherwise entitled to Medicaid, in a group
5 health plan is cost-effective. While the secretary has not
6 yet issued guidelines, these provisions are effective January
7 1, 1991, unless legislation is required. If legislation is
8 required, the effective date is the first day of the calendar
9 quarter following close of the legislative session. However,
10 we question our ability to implement these provisions until
11 federal guidelines are established.

12 By changing the Iowa Code we have the authority under state
13 law to comply with the federal law and the Code would provide
14 the legal authority for the administrative rules that will be
15 promulgated based upon the guidelines which are to be
16 established by the secretary.

17 The fiscal impact of this legislation has not been
18 determined. The department should realize a savings to
19 program dollars since a requirement of the legislation is that
20 payment of the cost-sharing expenses be cost-effective.
21 However, there will be extensive program and systems start-up
22 costs which may negate the savings in the beginning stages.
23 There are several options on how to administer the program
24 that are being explored. However, the option chosen and the
25 administrative cost associated with the option to implement
26 and support the program will depend on the guidelines
27 established by the secretary. One FTE will be necessary to
28 develop policy and implement the program and two FTEs will be
29 necessary to design and implement systems changes. The number
30 of additional FTEs needed to support the program will depend
31 on the option chosen.

32
33
34
35

SENATE FILE 343

AN ACT
RELATING TO THE MEDICAL ASSISTANCE PROGRAM.

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

Section 1. Section 249A.2, Code 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 5A. "Group health plan cost sharing" means payment under the medical assistance program of a premium, a coinsurance amount, a deductible amount, or any other cost sharing obligation for a group health plan as required by Title XIX of the federal Social Security Act, section 1906, as codified in 42 U.S.C. § 1396e.

Sec. 2. Section 249A.2, subsection 7, Code 1991, is amended to read as follows:

7. "Medicare cost-sharing cost sharing" means payment under the medical assistance program of a premium, a coinsurance amount, or a deductible amount for federal medicare as required provided by Title XIX of the federal Social Security Act, section 1905(p)(3), as codified in 42 U.S.C. § 1396d(p)(3).

Sec. 3. Section 249A.3, subsection 8, Code 1991, is amended to read as follows:

8. Medicare cost sharing shall be provided to or on behalf of an individual who is a resident of the state or a resident who is temporarily absent from the state and who is either a qualified medicare beneficiary as defined under Title XIX of the federal Social Security Act, section 1905(p)(1), as codified in 42 U.S.C. § 1396d(p)(1) or a qualified disabled and working person as defined under Title XIX of the federal Social Security Act, section 1905(s), as codified in 42 U.S.C. § 1396d(s).

Sec. 4. Section 249A.3, Code 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 10. Group health plan cost sharing shall be provided as required by Title XIX of the federal Social Security Act, section 1906, as codified in 42 U.S.C. § 1396e.

Sec. 5. Section 249A.4, Code 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 14. In implementing subsection 9, relating to reimbursement for medical and health services under this chapter, when a selected out-of-state acute care hospital facility is involved, a contractual arrangement may be developed with the out-of-state facility that is in accordance with the requirements of Titles XVIII and XIX of the federal Social Security Act. The contractual arrangement is not subject to other reimbursement standards, policies, and rate setting procedures required under this chapter.

Sec. 6. NEW SECTION. 249A.20 ENHANCED MENTAL HEALTH, MENTAL RETARDATION, AND DEVELOPMENTAL DISABILITIES SERVICES PLAN OVERSIGHT COMMITTEE.

1. For purposes of this section and section 249A.21, "oversight committee" means the enhanced mental health, mental retardation, and developmental disabilities services plan oversight committee and "candidate service" means day treatment, partial hospitalization, and case management. Case management is limited to persons with mental retardation, a developmental disability, or chronic mental illness.

2. An enhanced mental health, mental retardation, and developmental disabilities services plan oversight committee is created in the department to assure that the services plan is implemented within identified, budgeted, and appropriated funds.

3. The oversight committee shall have nine members. Two members shall be designated by the fiscal committee of the legislative council and are subject to approval by the governor. The director of human services and the

administrator of the division of mental health, mental retardation, and developmental disabilities or their designees shall be members. Three members shall be designated by the Iowa state association of counties. One member shall be designated by the state mental health and mental retardation commission. One member shall be designated by the governor's planning council on developmental disabilities. Members shall serve staggered three-year terms and vacancies shall be filled in the same manner as the initial appointment. Members are entitled to actual and necessary expenses.

4. The oversight committee shall do all of the following:

a. Take action on whether to include behavior management as a candidate service in the state medical assistance plan amendment, to develop a federal waiver request for behavior management as a candidate service, or to take no action to include behavior management as a covered service. Decisions shall be based upon a determination of the availability of funds for the nonfederal share of the cost of the service.

b. Explore and make recommendations regarding the submission to the federal government of a state medical assistance plan waiver for any candidate services which are not accepted by the federal government as a state medical assistance plan amendment.

c. Explore and make recommendations regarding the submission to the federal government of a state medical assistance plan waiver for any services provided to persons with mental retardation, a developmental disability, or chronic mental illness.

d. Review and make recommendations regarding the county case management implementation plan and budget to the state mental health and mental retardation commission.

e. Track the expenditures for, and utilization of, candidate services. Report a variance in an approved plan to the governor, the legislative fiscal bureau, and each county.

f. Recommend action regarding variations from the budgeted, appropriated, and identified expenditures and projected expenditure offsets to the council on human services and the state mental health and mental retardation commission.

g. Submit a report regarding the results of the implementation of the provisions of this section, including the impact upon the institutional populations, to the governor and the general assembly. The report shall contain recommendations regarding continuing the provisions of this section in subsequent fiscal years.

h. Recommend rules, or amendments to existing rules, which implement the provisions of this section, to the council on human services and the state mental health and mental retardation commission.

i. Develop a methodology to determine the base year expenditure for a county maintenance of effort established pursuant to section 249A.21 which includes an amount for each of the candidate services.

j. Issue a final advisory decision regarding any issue of disagreement between a county and the department relating to expenditures for candidate services or the county's maintenance of effort.

Sec. 7. NEW SECTION. 249A.21 CANDIDATE SERVICES FUND.

1. A state candidate services fund is created in the office of the treasurer of state under the authority of the department. The fund shall consist of moneys appropriated to the fund and moneys received from counties pursuant to this section. Notwithstanding section 8.33, moneys in the candidate services fund which are unobligated or unexpended on June 30 of any fiscal year shall not revert to the general fund of the state but shall remain in the candidate services fund and be used for the purposes of this section. Any interest or other earnings on the moneys in the candidate services fund shall remain in the candidate services fund and shall be used for the purposes of this section.

2. The county of legal settlement shall be billed for fifty percent of the nonfederal share of the cost of case management provided to adults, day treatment, and partial hospitalization provided under the medical assistance program for persons with mental retardation, a developmental disability, or chronic mental illness. For purposes of this section, chronic mental illness does not include organic mental disorders.

3. If a county's expenditures for candidate services provided to persons with mental retardation, a developmental disability, or chronic mental illness exceeds the county's base year expenditure amount for these services established under 1988 Iowa Acts, chapter 1276, section 14, the county shall receive from the candidate services fund the least amount of the following:

a. The difference between the county's total expenditures for the candidate services in the fiscal year and the base year expenditure amount.

b. The amount expended by the county under subsection 2.

c. The amount by which the total expenditures for persons with mental retardation, a developmental disability, or chronic mental illness for a fiscal year, exceeds the maintenance of effort expenditures established under 1988 Iowa Acts, chapter 1276, section 14.

Sec. 8. NEW SECTION. 249A.22 INDEMNITY FOR CASE MANAGEMENT AND DISALLOWED COSTS.

1. If the department contracts with a county or consortium of counties to provide case management services funded under medical assistance, the state shall appear and defend the department's employees and agents acting in an official capacity on the department's behalf and the state shall indemnify the employees and agents for acts within the scope of their employment. The state's duties to defend and indemnify shall not apply if the conduct upon which any claim is based constitutes a willful and wanton act or omission or malfeasance in office.

2. If the department is the case management contractor, the state shall be responsible for any costs included within the unit rate for case management services which are disallowed for medical assistance reimbursement by the federal health care financing administration. The contracting county shall be credited for the county's share of any amounts overpaid due to the disallowed costs. However, if certain costs are disallowed due to requirements or preferences of a particular county in the provision of case management services, the county shall not receive credit for the amount of the costs.

Sec. 9. Section 249B.1, subsection 6, Code 1991, is amended to read as follows:

6. "Medical assistance" means "medical assistance", "additional medical assistance", "discretionary medical assistance" or "medicare cost-sharing cost sharing" as defined in section 249A.2 which is provided to an individual pursuant to chapter 249A and Title XIX of the federal Social Security Act.

Sec. 10. Section 421.38, subsection 1, Code 1991, is amended to read as follows:

1. THREE MONTHS LIMIT. A claim shall not be allowed by the department of revenue and finance if the claim is presented after the lapse of three months from its accrual. However, claims this time limit is subject to the following exceptions:

a. Claims by state employees for benefits pursuant to chapters 85, 85A, and 86 are subject to limitations provided in those chapters.

b. Claims for medical assistance payments authorized under chapter 249A are subject to the time limits imposed by rule adopted by the department.

Sec. 11. LEGISLATIVE INTENT. Nothing in this Act is intended by the general assembly to be the provision of a fair and equitable funding formula specified in 1985 Iowa Acts,

chapter 249, section 9. Nothing in this Act shall be construed, is intended, or shall imply a claim of entitlement to any programs or services specified in section 225C.28.

JOE J. WELSH
President of the Senate

ROBERT C. ARNOULD
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 343, Seventy-fourth General Assembly.

JOHN F. DWYER
Secretary of the Senate

Approved _____, 1991

TERRY E. BRANSTAD
Governor