

Reprinted

FILED JAN 31 1995

SENATE FILE 82  
BY COMMITTEE ON HUMAN RESOURCES

(SUCCESSOR TO SSB 63)

Passed Senate, Date <sup>(p.320)</sup> 2/9/95 Passed House, Date <sup>(p.1403)</sup> 4-11-95  
Vote: Ayes 48 Nays 0 Vote: Ayes 95 Nays 0  
Approved April 25, 1995

**A BILL FOR**

1 An Act relating to medical assistance provisions including those  
2 relating to presumptive eligibility for pregnant women and the  
3 estates and trusts of recipients of medical assistance.

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

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S.F. 82

1 Section 1. Section 249A.3, subsection 1, paragraph i, Code  
2 1995, is amended to read as follows:

3 i. Is a pregnant woman who is determined to be  
4 presumptively eligible by a health care provider qualified  
5 under the federal Omnibus Budget Reconciliation Act of 1986,  
6 Pub. L. No. 99-509, § 9407. The woman is eligible for  
7 ambulatory prenatal care assistance ~~for a period of fourteen~~  
8 days until the last day of the month following the month of  
9 the presumptive eligibility determination. If the department  
10 receives the woman's medical assistance application ~~within the~~  
11 fourteen-day period by the last day of the month following the  
12 presumptive eligibility determination, the woman is eligible  
13 for ambulatory prenatal care assistance ~~for forty-five days~~  
14 ~~from the date presumptive eligibility was determined or~~ until  
15 the department actually determines the woman's eligibility or  
16 ineligibility for medical assistance, ~~whichever occurs first.~~  
17 The costs of services provided during the presumptive  
18 eligibility period shall be paid by the medical assistance  
19 program for those persons who are determined to be ineligible  
20 through the regular eligibility determination process.

21 Sec. 2. Section 249A.5, subsection 2, Code 1995, is  
22 amended by adding the following new paragraph:

23 NEW PARAGRAPH. f. If a debt is due under this subsection  
24 from the estate of a recipient, the administrator of the  
25 nursing facility, intermediate care facility for the mentally  
26 retarded, or mental health institute in which the recipient  
27 resided at the time of the recipient's death, and the personal  
28 representative of the recipient, if applicable, shall report  
29 the death to the department within ten days of the death of  
30 the recipient. For the purposes of this paragraph, "personal  
31 representative" means a person who filed a medical assistance  
32 application on behalf of the recipient or who manages the  
33 financial affairs of the recipient.

34 Sec. 3. Section 633.708, Code 1995, is amended to read as  
35 follows:

1 633.708 DISPOSITION OF MEDICAL ASSISTANCE SPECIAL NEEDS  
2 TRUSTS.

3 Regardless of the terms of a medical assistance special  
4 needs trust, any property-received-or-held-by-the-trust income  
5 received or asset added to the trust during a one-month period  
6 shall be expended as provided for medical assistance income  
7 trusts under section 633.709, on a monthly basis, during the  
8 life of the beneficiary. Any increase in income or principal  
9 retained in the trust from a previous month may be expended,  
10 during the life of the beneficiary, only for reasonable and  
11 necessary expenses of the trust, not to exceed ten dollars per  
12 month without court approval, for special needs of the  
13 beneficiary attributable to the beneficiary's disability and  
14 approved by the district court, for medical care or services  
15 that would otherwise be covered by medical assistance under  
16 chapter 249A, or to reimburse the state for medical assistance  
17 paid on behalf of the beneficiary.

18 EXPLANATION

19 This bill provides that a pregnant woman who is estab-  
20 lishing eligibility for medical assistance under the  
21 presumptive eligibility provisions is eligible for ambulatory  
22 prenatal care until the last day of the month following the  
23 month of determination of presumptive eligibility. If the  
24 department receives the woman's application for medical  
25 assistance during the time in which the woman is presumptively  
26 eligible, the woman is eligible until the time that the  
27 department actually determines the woman's ineligibility. The  
28 bill also provides for the notification of the department of  
29 human services by the administrator of a nursing facility, an  
30 intermediate care facility for the mentally retarded, or a  
31 mental health institute and by the personal representative of  
32 a person within 10 days of the person's death if a debt is due  
33 from the person's estate to the state for medical assistance  
34 provided. The bill also amends the conditions for expenditure  
35 of income and principal placed in medical assistance income

1 trusts and special needs trusts.

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## SENATE FILE 82

S-3032

1 Amend Senate File 82 as follows:

2 1. Page 1, by inserting after line 33 the  
3 following:

4 "Sec. \_\_\_\_ . Section 523A.8, subsection 1, Code  
5 1995, is amended by adding the following new  
6 paragraph:

7 NEW PARAGRAPH. k. State that after all payments  
8 are made in accordance with the conditions and terms  
9 of the agreement for funeral merchandise or funeral  
10 services, any funds remaining in an irrevocable burial  
11 trust fund from which the costs of funeral merchandise  
12 and funeral services are paid shall be returned to the  
13 estate of the deceased individual for purposes of  
14 probate pursuant to chapter 633 or if the estate is  
15 not subject to probate and if the deceased was a  
16 recipient of medical assistance and a debt is due the  
17 department of human services pursuant to section  
18 249A.5, the remaining funds shall be available for  
19 payment of the debt.

20 Sec. \_\_\_\_ . Section 523E.8, subsection 1, Code 1995,  
21 is amended by adding the following new paragraph:

22 NEW PARAGRAPH. k. State that after all payments  
23 are made in accordance with the conditions and terms  
24 of the agreement for cemetery merchandise, any funds  
25 remaining in an irrevocable burial trust fund from  
26 which cemetery merchandise costs are paid shall be  
27 returned to the estate of the deceased individual for  
28 purposes of probate pursuant to chapter 633 or if the  
29 estate is not subject to probate and if the deceased  
30 was a recipient of medical assistance and a debt is  
31 due the department of human services pursuant to  
32 section 249A.5, the remaining funds shall be available  
33 for payment of the debt."

34 2. By renumbering as necessary.

By JOHNIE HAMMOND

S-3032 FILED FEBRUARY 7, 1995

WITHDRAWN

(p.319) 2/9/95

## SENATE FILE 82

S-3038

1 Amend Senate File 82 as follows:

2 1. Page 1, by inserting after line 33 the  
3 following:

4 "Sec. \_\_\_\_ . Section 523A.8, subsection 1, Code  
5 1995, is amended by adding the following new  
6 paragraph:

7 NEW PARAGRAPH. k. State that after all payments  
8 are made in accordance with the conditions and terms  
9 of the agreement for funeral merchandise or funeral  
10 services, any funds remaining in an irrevocable burial  
11 trust fund from which the costs of funeral merchandise  
12 and funeral services are paid shall be returned to the  
13 estate of the deceased individual for purposes of  
14 probate pursuant to chapter 633 or if the estate is  
15 not subject to probate and if the deceased was a  
16 recipient of medical assistance and a debt is due the  
17 department of human services pursuant to section  
18 249A.5, the remaining funds shall be available for  
19 payment of the debt.

20 Sec. \_\_\_\_ . Section 523E.8, subsection 1, Code 1995,  
21 is amended by adding the following new paragraph:

22 NEW PARAGRAPH. k. State that after all payments  
23 are made in accordance with the conditions and terms  
24 of the agreement for cemetery merchandise, any funds  
25 remaining in an irrevocable burial trust fund from  
26 which cemetery merchandise costs are paid shall be  
27 returned to the estate of the deceased individual for  
28 purposes of probate pursuant to chapter 633 or if the  
29 estate is not subject to probate and if the deceased  
30 was a recipient of medical assistance and a debt is  
31 due the department of human services pursuant to  
32 section 249A.5, the remaining funds shall be available  
33 for payment of the debt."

34 2. Page 2, by inserting after line 17 the  
35 following:

36 "Sec. \_\_\_\_ . EFFECTIVE DATE. Section 3 of this Act,  
37 which amends section 633.708, takes effect October 1,  
38 1995."

39 3. Title page, line 3, by inserting after the  
40 word "assistance" the following: "and providing an  
41 effective date".

42 4. By renumbering as necessary.

By JOHNIE HAMMOND

S-3038 FILED FEBRUARY 8, 1995

(P. 319) adopted 2/9/95



1 Section 1. Section 249A.3, subsection 1, paragraph i, Code  
2 1995, is amended to read as follows:

3 i. Is a pregnant woman who is determined to be  
4 presumptively eligible by a health care provider qualified  
5 under the federal Omnibus Budget Reconciliation Act of 1986,  
6 Pub. L. No. 99-509, § 9407. The woman is eligible for  
7 ambulatory prenatal care assistance ~~for a period of fourteen~~  
8 days until the last day of the month following the month of  
9 the presumptive eligibility determination. If the department  
10 receives the woman's medical assistance application ~~within the~~  
11 fourteen-day period by the last day of the month following the  
12 presumptive eligibility determination, the woman is eligible  
13 for ambulatory prenatal care assistance ~~for forty-five days~~  
14 ~~from the date presumptive eligibility was determined or~~ until  
15 the department actually determines the woman's eligibility or  
16 ineligibility for medical assistance, ~~whichever occurs first~~.  
17 The costs of services provided during the presumptive  
18 eligibility period shall be paid by the medical assistance  
19 program for those persons who are determined to be ineligible  
20 through the regular eligibility determination process.

21 Sec. 2. Section 249A.5, subsection 2, Code 1995, is  
22 amended by adding the following new paragraph:

23 NEW PARAGRAPH. f. If a debt is due under this subsection  
24 from the estate of a recipient, the administrator of the  
25 nursing facility, intermediate care facility for the mentally  
26 retarded, or mental health institute in which the recipient  
27 resided at the time of the recipient's death, and the personal  
28 representative of the recipient, if applicable, shall report  
29 the death to the department within ten days of the death of  
30 the recipient. For the purposes of this paragraph, "personal  
31 representative" means a person who filed a medical assistance  
32 application on behalf of the recipient or who manages the  
33 financial affairs of the recipient.

34 Sec. 3. Section 523A.8, subsection 1, Code 1995, is  
35 amended by adding the following new paragraph:



1 NEW PARAGRAPH. k. State that after all payments are made  
2 in accordance with the conditions and terms of the agreement.  
3 for funeral merchandise or funeral services, any funds  
4 remaining in an irrevocable burial trust fund from which the  
5 costs of funeral merchandise and funeral services are paid  
6 shall be returned to the estate of the deceased individual for  
7 purposes of probate pursuant to chapter 633 or if the estate  
8 is not subject to probate and if the deceased was a recipient  
9 of medical assistance and a debt is due the department of  
10 human services pursuant to section 249A.5, the remaining funds  
11 shall be available for payment of the debt.

12 Sec. 4. Section 523E.8, subsection 1, Code 1995, is  
13 amended by adding the following new paragraph:

14 NEW PARAGRAPH. k. State that after all payments are made  
15 in accordance with the conditions and terms of the agreement  
16 for cemetery merchandise, any funds remaining in an  
17 irrevocable burial trust fund from which cemetery merchandise  
18 costs are paid shall be returned to the estate of the deceased  
19 individual for purposes of probate pursuant to chapter 633 or  
20 if the estate is not subject to probate and if the deceased  
21 was a recipient of medical assistance and a debt is due the  
22 department of human services pursuant to section 249A.5, the  
23 remaining funds shall be available for payment of the debt.

24 Sec. 5. Section 633.708, Code 1995, is amended to read as  
25 follows:

26 633.708 DISPOSITION OF MEDICAL ASSISTANCE SPECIAL NEEDS  
27 TRUSTS.

28 Regardless of the terms of a medical assistance special  
29 needs trust, any ~~property received or held by the trust~~ income  
30 received or asset added to the trust during a one-month period  
31 shall be expended as provided for medical assistance income  
32 trusts under section 633.709, on a monthly basis, during the  
33 life of the beneficiary. Any increase in income or principal  
34 retained in the trust from a previous month may be expended,  
35 during the life of the beneficiary, only for reasonable and

1 necessary expenses of the trust, not to exceed ten dollars per  
2 month without court approval, for special needs of the  
3 beneficiary attributable to the beneficiary's disability and  
4 approved by the district court, for medical care or services  
5 that would otherwise be covered by medical assistance under  
6 chapter 249A, or to reimburse the state for medical assistance  
7 paid on behalf of the beneficiary.

8 Sec. 6. EFFECTIVE DATE. Section 5 of this Act, which  
9 amends section 633.708, takes effect October 1, 1995.

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SENATE FILE 82

H-3219

1 Amend Senate File 82, as amended, passed, and re-  
2 printed by the Senate, as follows:

3 1. Page 1, line 11, by inserting after the words  
4 "following the" the following: "month of the".

5 2. Page 1, by inserting after line 33 the  
6 following:

7 "Sec. \_\_\_\_ . Section 249A.12, subsection 3, Code  
8 1995, is amended to read as follows:

9 3. If a county reimburses the department for  
10 medical assistance provided under this section and the  
11 amount of medical assistance is subsequently repaid  
12 through a medical assistance income trust or a medical  
13 assistance special needs trust as defined in section  
14 633.707, the department shall reimburse the county on  
15 a proportionate basis. The department shall adopt  
16 rules to implement this subsection."

17 3. Page 2, by inserting after line 23 the  
18 following:

19 "Sec. \_\_\_\_ . Section 561.19, Code 1995, is amended  
20 to read as follows:

21 561.19 EXEMPTION IN HANDS OF ISSUE.

22 Where the homestead descends to the issue of either  
23 spouse the same issue shall be held by-such-issue  
24 exempt from any antecedent debts of their the issue's  
25 parents or their-own antecedent debts of the issue,  
26 except those of the owner thereof of the homestead  
27 contracted prior to its acquisition of the homestead  
28 or those created under section 249A:5 relating to the  
29 recovery of medical assistance payments.

30 Sec. \_\_\_\_ . Section 633.410, Code 1995, is amended  
31 to read as follows:

32 633.410 LIMITATION ON FILING CLAIMS AGAINST  
33 DECEDENT'S ESTATE.

34 All claims against a decedent's estate, other than  
35 charges, whether due or to become due, absolute or  
36 contingent, liquidated or unliquidated, founded on  
37 contract or otherwise, are forever barred against the  
38 estate, the personal representative, and the  
39 distributees of the estate, unless filed with the  
40 clerk within the later to occur of four months after  
41 the date of the second publication of the notice to  
42 creditors or, as to each claimant whose identity is  
43 reasonably ascertainable, one month after service of  
44 notice by ordinary mail to the claimant's last known  
45 address. However, notice is not required to be given  
46 by mail to any creditor whose claim will be paid or  
47 otherwise satisfied during administration and the  
48 personal representative may waive the limitation on  
49 filing provided under this section. This section does  
50 not bar claims for which there is insurance coverage,

H-3219

H-3219

Page 2

- 1 to the extent of the coverage, claims for debts
- 2 created under section 249A.5 relating to the recovery
- 3 of medical assistance payments, or claimants entitled
- 4 to equitable relief due to peculiar circumstances."
- 5 4. By renumbering as necessary.

By COMMITTEE ON HUMAN RESOURCES  
DAGGETT of Union, Chairperson

H-3219 FILED MARCH 1, 1995

*adopted*  
*4-11-95*  
*(P.1403)*

HOUSE AMENDMENT TO  
SENATE FILE 82

S-3389

1 Amend Senate File 82, as amended, passed, and re-  
2 printed by the Senate, as follows:

3 1. Page 1, line 11, by inserting after the words  
4 "following the" the following: "month of the".

5 2. Page 1, by inserting after line 33 the  
6 following:

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25 parents or their-own antecedent debts of the issue,  
26 except those of the owner thereof of the homestead  
27 contracted prior to its acquisition of the homestead  
28 or those created under section 249A.5 relating to the  
29 recovery of medical assistance payments.

30 Sec. \_\_\_\_ . Section 633.410, Code 1995, is amended  
31 to read as follows:

32 633.410 LIMITATION ON FILING CLAIMS AGAINST  
33 DECEDENT'S ESTATE.

34 All claims against a decedent's estate, other than  
35 charges, whether due or to become due, absolute or  
36 contingent, liquidated or unliquidated, founded on  
37 contract or otherwise, are forever barred against the  
38 estate, the personal representative, and the  
39 distributees of the estate, unless filed with the  
40 clerk within the later to occur of four months after  
41 the date of the second publication of the notice to  
42 creditors or, as to each claimant whose identity is  
43 reasonably ascertainable, one month after service of  
44 notice by ordinary mail to the claimant's last known  
45 address. However, notice is not required to be given  
46 by mail to any creditor whose claim will be paid or  
47 otherwise satisfied during administration and the  
48 personal representative may waive the limitation on  
49 filing provided under this section. This section does  
50 not bar claims for which there is insurance coverage,

S-3389

S-3389

Page 2

- 1 to the extent of the coverage, claims for debts
- 2 created under section 249A.5 relating to the recovery
- 3 of medical assistance payments, or claimants entitled
- 4 to equitable relief due to peculiar circumstances."
- 5 4. By renumbering as necessary.

RECEIVED FROM THE HOUSE

S-3389 FILED APRIL 11, 1995

*Senate concurred 4/17/95 (p.1228)*

Hammond  
Newhauser  
Bartz

SSB-63

Human Resources  
Succeeded By

SF/HF 82  
SENATE/HOUSE FILE

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 medical assistance provisions including those  
2 relating to presumptive eligibility for pregnant women and the  
3 estates and trusts of recipients of medical assistance.

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

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1 Section 1. Section 249A.3, subsection 1, paragraph i, Code  
2 1995, is amended to read as follows:

3 i. Is a pregnant woman who is determined to be  
4 presumptively eligible by a health care provider qualified  
5 under the federal Omnibus Budget Reconciliation Act of 1986,  
6 Pub. L. No. 99-509, § 9407. The woman is eligible for  
7 ambulatory prenatal care assistance ~~for-a-period-of-fourteen~~  
8 days until the last day of the month following the month of  
9 the presumptive eligibility determination. If the department  
10 receives the woman's medical assistance application ~~within-the~~  
11 fourteen-day-period by the last day of the month following the  
12 presumptive eligibility determination, the woman is eligible  
13 for ambulatory prenatal care assistance ~~for-forty-five-days~~  
14 ~~from-the-date-presumptive-eligibility-was-determined-or~~ until  
15 the department actually determines the woman's eligibility or  
16 ineligibility for medical assistance, ~~whichever-occurs-first.~~  
17 The costs of services provided during the presumptive  
18 eligibility period shall be paid by the medical assistance  
19 program for those persons who are determined to be ineligible  
20 through the regular eligibility determination process.

21 Sec. 2. Section 249A.5, subsection 2, Code 1995, is  
22 amended by adding the following new paragraph:

23 NEW PARAGRAPH. f. If a debt is due under this subsection  
24 from the estate of a recipient, the administrator of the  
25 nursing facility, intermediate care facility for the mentally  
26 retarded, or mental health institute in which the recipient  
27 resided at the time of the recipient's death, and the personal  
28 representative of the recipient, if applicable, shall report  
29 the death to the department within ten days of the death of  
30 the recipient. For the purposes of this paragraph, "personal  
31 representative" means a person who filed a medical assistance  
32 application on behalf of the recipient or who manages the  
33 financial affairs of the recipient.

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3 Regardless of the terms of a medical assistance special  
4 needs trust, any ~~property-received-or-held-by-the-trust~~ income  
5 received or asset added to the trust during a one-month period  
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9 retained in the trust from a previous month may be expended,  
10 during the life of the beneficiary, only for reasonable and  
11 necessary expenses of the trust, not to exceed ten dollars per  
12 month without court approval, for special needs of the  
13 beneficiary attributable to the beneficiary's disability and  
14 approved by the district court, for medical care or services  
15 that would otherwise be covered by medical assistance under  
16 chapter 249A, or to reimburse the state for medical assistance  
17 paid on behalf of the beneficiary.

18 EXPLANATION

19 This bill provides that a pregnant woman who is estab-  
20 lishing eligibility under the presumptive eligibility  
21 provisions is eligible for ambulatory prenatal care until the  
22 last day of the month following the month of determination of  
23 presumptive eligibility. If the department receives the  
24 woman's application for medical assistance during the time in  
25 which the woman is presumptively eligible, the woman is  
26 eligible until the time that the department actually  
27 determines the woman's ineligibility. The bill also provides  
28 for the notification of the department of human services by  
29 the administrator of a nursing facility, an intermediate care  
30 facility for the mentally retarded, or a mental health  
31 institute and by the personal representative of a person  
32 within 10 days of the person's death if a debt is due from the  
33 person's estate to the state for medical assistance provided.  
34 The bill also amends the conditions for expenditure of income  
35 and principal placed in medical assistance income trusts and

1 special needs trusts.

2 BACKGROUND STATEMENT

3 SUBMITTED BY THE AGENCY

4 This bill addresses three areas related to medical assis-  
5 tance: presumptive eligibility for pregnant women, the report  
6 of the death of medical assistance recipients to the  
7 department, and the regulation of medical assistance income  
8 and special needs trusts.

9 Section 1 of the bill amends the provision relating to  
10 presumptive eligibility for medical assistance for pregnant  
11 women in order to comply with changes in federal law. Federal  
12 law currently provides that a woman who is presumptively  
13 eligible is only eligible prior to the time the woman is  
14 formally determined to be eligible or ineligible and for a  
15 specified number of days while awaiting formal determination  
16 of eligibility.

17 Section 2 of the bill requires the administrator of a  
18 nursing facility, an intermediate care facility for the  
19 mentally retarded, or a mental health institute facility, and  
20 the personal representative of a medical assistance recipient,  
21 to report the death of the recipient to the department of  
22 human services to aid in estate recovery. By requiring  
23 reporting of the death of a recipient, the bill also requires  
24 that upon the death of the surviving spouse or the blind or  
25 disabled child, the administrator or personal representative  
26 of the spouse or child reports their death to the department.  
27 Currently, the department is unable to track the amount in the  
28 estate that could be used to repay the department for medical  
29 assistance paid on behalf of the recipient. Implementing this  
30 change could result in increased recovery of small estates not  
31 subject to probate. The change will require additional staff  
32 time and postage costs to forward reports to the contractor  
33 who is handling the estate recovery program.

34 Section 3 provides changes in the regulation of special  
35 needs trusts. Under the Omnibus Budget Reconciliation Act

1 (OBRA) of 1993, two types of trusts are allowed for persons  
2 who are eligible for or may become eligible for medical  
3 assistance: medical assistance income trusts and medical  
4 assistance special needs trusts. Under the current law, some  
5 beneficiaries meet the criteria of both types of trusts  
6 because the medical assistance income trust is composed of  
7 only the beneficiary's income and a special needs trust can be  
8 used to meet the needs directly related to a beneficiary's  
9 disability. The changes proposed in this bill would require  
10 that if a trust meets both the definitions of a medical  
11 assistance income trust and a special needs trust, expenditure  
12 of any income or assets received by the trust within a one-  
13 month period would initially be expended in accordance with  
14 the requirements for a medical assistance income trust and  
15 that any increase in income or principal retained in the trust  
16 from a previous month may be expended in accordance with the  
17 current requirements for a special needs trust, which includes  
18 expenditure for the special needs of the beneficiary  
19 attributable to the beneficiary's disability. These changes  
20 may result in cost savings in trust income previously retained  
21 in a trust and not considered when establishing eligibility  
22 for medical assistance and client participation will be  
23 considered for these purposes, thereby reducing the medical  
24 assistance payment for the beneficiary's cost of care.

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SENATE FILE 82

AN ACT

RELATING TO MEDICAL ASSISTANCE PROVISIONS INCLUDING THOSE  
RELATING TO PRESUMPTIVE ELIGIBILITY FOR PREGNANT WOMEN  
AND THE ESTATES AND TRUSTS OF RECIPIENTS OF MEDICAL AS-  
SISTANCE AND PROVIDING AN EFFECTIVE DATE.

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

Section 1. Section 249A.3, subsection 1, paragraph i, Code 1995, is amended to read as follows:

i. Is a pregnant woman who is determined to be presumptively eligible by a health care provider qualified under the federal Omnibus Budget Reconciliation Act of 1986, Pub. L. No. 99-509, § 9407. The woman is eligible for ambulatory prenatal care assistance ~~for a period of fourteen days until the last day of the month~~ following the month of the presumptive eligibility determination. If the department receives the woman's medical assistance application ~~within the fourteen-day period by the last day of the month following the month of the presumptive eligibility determination,~~ the woman is eligible for ambulatory prenatal care assistance ~~for forty-five days from the date presumptive eligibility was determined~~ or until the department actually determines the woman's

~~eligibility or ineligibility~~ for medical assistance, ~~whichever occurs first~~. The costs of services provided during the presumptive eligibility period shall be paid by the medical assistance program for those persons who are determined to be ineligible through the regular eligibility determination process.

Sec. 2. Section 249A.5, subsection 2, Code 1995, is amended by adding the following new paragraph:

NEW PARAGRAPH. f. If a debt is due under this subsection from the estate of a recipient, the administrator of the nursing facility, intermediate care facility for the mentally retarded, or mental health institute in which the recipient resided at the time of the recipient's death, and the personal representative of the recipient, if applicable, shall report the death to the department within ten days of the death of the recipient. For the purposes of this paragraph, "personal representative" means a person who filed a medical assistance application on behalf of the recipient or who manages the financial affairs of the recipient.

Sec. 3. Section 249A.12, subsection 3, Code 1995, is amended to read as follows:

3. If a county reimburses the department for medical assistance provided under this section and the amount of medical assistance is subsequently repaid through a medical assistance income trust or a medical assistance special needs trust as defined in section 633.707, the department shall reimburse the county on a proportionate basis. The department shall adopt rules to implement this subsection.

Sec. 4. Section 523A.8, subsection 1, Code 1995, is amended by adding the following new paragraph:

NEW PARAGRAPH. k. State that after all payments are made in accordance with the conditions and terms of the agreement for funeral merchandise or funeral services, any funds remaining in an irrevocable burial trust fund from which the costs of funeral merchandise and funeral services are paid

shall be returned to the estate of the deceased individual for purposes of probate pursuant to chapter 633 or if the estate is not subject to probate and if the deceased was a recipient of medical assistance and a debt is due the department of human services pursuant to section 249A.5, the remaining funds shall be available for payment of the debt.

Sec. 5. Section 523E.8, subsection 1, Code 1995, is amended by adding the following new paragraph:

NEW PARAGRAPH. k. State that after all payments are made in accordance with the conditions and terms of the agreement for cemetery merchandise, any funds remaining in an irrevocable burial trust fund from which cemetery merchandise costs are paid shall be returned to the estate of the deceased individual for purposes of probate pursuant to chapter 633 or if the estate is not subject to probate and if the deceased was a recipient of medical assistance and a debt is due the department of human services pursuant to section 249A.5, the remaining funds shall be available for payment of the debt.

Sec. 6. Section 561.19, Code 1995, is amended to read as follows:

561.19 EXEMPTION IN HANDS OF ISSUE.

Where the homestead descends to the issue of either spouse the same issue shall be held by such-issue exempt from any antecedent debts of their the issue's parents or their-own antecedent debts of the issue, except those of the owner thereof of the homestead contracted prior to its acquisition of the homestead or those created under section 249A.5 relating to the recovery of medical assistance payments.

Sec. 7. Section 633.410, Code 1995, is amended to read as follows:

633.410 LIMITATION ON FILING CLAIMS AGAINST DECEDENT'S ESTATE.

All claims against a decedent's estate, other than charges, whether due or to become due, absolute or contingent, liquidated or unliquidated, founded on contract or otherwise,

are forever barred against the estate, the personal representative, and the distributees of the estate, unless filed with the clerk within the later to occur of four months after the date of the second publication of the notice to creditors or, as to each claimant whose identity is reasonably ascertainable, one month after service of notice by ordinary mail to the claimant's last known address. However, notice is not required to be given by mail to any creditor whose claim will be paid or otherwise satisfied during administration and the personal representative may waive the limitation on filing provided under this section. This section does not bar claims for which there is insurance coverage, to the extent of the coverage, claims for debts created under section 249A.5 relating to the recovery of medical assistance payments, or claimants entitled to equitable relief due to peculiar circumstances.

Sec. 8. Section 633.708, Code 1995, is amended to read as follows:

633.708 DISPOSITION OF MEDICAL ASSISTANCE SPECIAL NEEDS TRUSTS.

Regardless of the terms of a medical assistance special needs trust, any property-received-or-held-by-the-trust income received or asset added to the trust during a one-month period shall be expended as provided for medical assistance income trusts under section 633.709, on a monthly basis, during the life of the beneficiary. Any increase in income or principal retained in the trust from a previous month may be expended, during the life of the beneficiary, only for reasonable and necessary expenses of the trust, not to exceed ten dollars per month without court approval, for special needs of the beneficiary attributable to the beneficiary's disability and approved by the district court, for medical care or services that would otherwise be covered by medical assistance under chapter 249A, or to reimburse the state for medical assistance paid on behalf of the beneficiary.

Sec. 9. EFFECTIVE DATE. Section 8 of this Act, which amends section 633.708, takes effect October 1, 1995.

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LEONARD L. BOSWELL  
President of the Senate

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RON J. CORBETT  
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 82, Seventy-sixth General Assembly.

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JOHN F. DWYER  
Secretary of the Senate

Approved April 25, 1995

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TERRY E. BRANSTAD  
Governor