

3/24/98 Rereferred To: Human Res.

MAR 3 1998
Place On Calendar

HOUSE FILE 2509
BY COMMITTEE ON HUMAN RESOURCES
(SUCCESSOR TO HSB 652)

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

A BILL FOR

1 An Act relating to medical assistance including transfer of
2 assets, interest on medical assistance debt, and probate
3 procedures relative to medical assistance debt.

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

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HF 2509

1 Section 1. Section 249A.5, subsection 2, Code 1997, is
2 amended by adding the following new paragraph after paragraph
3 b and relettering the subsequent paragraphs:

4 NEW PARAGRAPH. c. The department shall adopt rules to
5 determine the value of a life estate held by a decedent.

6 Sec. 2. Section 249F.1, subsection 2, paragraph b,
7 subparagraph (5), Code Supplement 1997, is amended to read as
8 follows:

9 (5) Transfers of less than two thousand dollars. However,
10 all transfers by the same transferor during ~~a calendar-year~~
11 the five-year period prior to application for medical
12 assistance by the transferor shall be aggregated. If a
13 transferor transfers property to more than one transferee
14 during ~~a calendar-year~~ the five-year period prior to
15 application for medical assistance by the transferor, the two
16 thousand dollar exemption shall be divided equally between the
17 transferees.

18 Sec. 3. Section 249F.1, subsection 2, paragraph b,
19 subparagraph (9), Code Supplement 1997, is amended by striking
20 the subparagraph.

21 Sec. 4. Section 249F.3, subsection 1, unnumbered paragraph
22 1, Code 1997, is amended to read as follows:

23 The department of human services may issue a notice
24 establishing and demanding payment of an accrued or accruing
25 debt due and owing to the department of human services as
26 provided in section 249F.2. The notice shall be sent by
27 restricted certified mail, as defined in section 618.15, to
28 the transferee at the transferee's last known address. If
29 service of the notice is unable to be completed by restricted
30 certified mail, the notice shall be served upon the transferee
31 in accordance with the rules of civil procedure. The notice
32 shall include all of the following:

33 Sec. 5. Section 249F.4, subsection 2, Code 1997, is
34 amended to read as follows:

35 2. The certification shall include true copies of the

1 original notice, the return of service, if applicable, any
2 request for an informal conference, any subsequent notices,
3 the written request for hearing, and true copies of any
4 administrative orders previously entered.

5 Sec. 6. NEW SECTION. 249F.6A EXEMPTION FROM CHAPTER 17A.

6 Actions initiated under this chapter are not subject to
7 contested case proceedings or further review pursuant to
8 chapter 17A. Review by the district court shall be an
9 original hearing before the court.

10 Sec. 7. Section 535.3, Code Supplement 1997, is amended by
11 adding the following new subsection:

12 NEW SUBSECTION. 3. Interest shall be allowed on all money
13 due on final decisions of contested case proceedings pursuant
14 to chapter 17A, in accordance with subsection 1, when the
15 contested case relates to overpayment under the medical
16 assistance program and the debt is due to the error of the
17 debtor.

18 Sec. 8. Section 633.477, Code 1997, is amended by adding
19 the following new subsection:

20 NEW SUBSECTION. 13. A statement as to whether a debt is
21 due to the department of human services for medical assistance
22 provided to the deceased pursuant to section 249A.5,
23 subsection 2, to be paid by all parties subject to the estate
24 recovery provisions of that subsection.

25 EXPLANATION

26 Code section 249A.5 is amended to direct the department to
27 adopt rules for determining the value of a life estate of a
28 decedent for the purposes of the estate recovery program.

29 The bill amends chapter 249F of the Code, relating to
30 transfer of assets under the medical assistance program.

31 Code section 249F.1 is amended to limit the amount of cash
32 transfers to \$2,000 during the five-year period prior to
33 application for medical assistance by the transferor, and not
34 during each calendar year. The bill also provides that if a
35 transfer is made to more than one transferee during that

1 period, the \$2,000 exemption is to be divided between all
2 transferees.

3 Code section 249F.1 is also amended by striking the
4 exemption for transfers of homesteads other than those
5 transfers allowed under federal law. Earlier subsections
6 exempt such transfers to a spouse, a disabled or minor child,
7 a child who has provided care to the transferor, or a sibling
8 residing with the transferor.

9 Code section 249F.3 is amended to provide for notice to a
10 transferee by restricted certified mail.

11 Code section 249F.4 is amended to provide a conforming
12 change to reflect the change in Code section 249F.3, and new
13 Code section 249F.6A provides that actions under the chapter
14 are not subject to contested case or further review under
15 chapter 17A but shall be reviewed by the district court in an
16 original hearing.

17 Code section 535.3 is amended to provide for the accrual of
18 interest on debts owed based upon contested case proceedings
19 resulting from overpayment due to the debtor's error under the
20 medical assistance program.

21 Code section 633.477 is amended by adding to the checklist
22 used in probating an estate claims against the estate by the
23 department of human services for medical assistance debt of
24 the deceased.

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Lamberte, Chair
Kremer
Fallow

HSB 652

HUMAN RESOURCES

Succeeded By
SF (HF) 2509

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

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
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DEPARTMENT OF HUMAN SERVICES

TERRY E. BRANSTAD, GOVERNOR

CHARLES M. PALMER, DIRECTOR

December 23, 1997

TO: Members of the General Assembly

FROM: Charles M. Palmer, Director

The Department of Human Services is proposing amendments to Iowa Code 249A.5(2), 249F, 535.3, and 633.477. The changes are being requested to allow the Department to add a mortality table, to allow the accrual of interest on debts owed to the Department, to add the Department to the probate checklist, to eliminate those exemptions that are inconsistent with federal regulations, to reflect procedural changes that are established for similar legal proceedings, and to update 249F to comply with Chapter 17A.

The change to 249A.5 specifies the mortality table to be used when applying estate recovery functions.

The changes to 249F limits the amount for cash transfers to \$2,000 for the 60 months prior to the application for assistance, eliminates the exemption of a transfer of a homestead to any person other than persons exempt under federal regulations and establish formal procedures consistent with the laws of civil procedure and update this code to be in compliance with Chapter 17A.

The change to 535.3 allows the Department interest on overpayments that occur because a provider or client received reimbursement that they were not entitled to.

The change to 633.477 adds the Department to the probate checklist that attorneys use when closing an estate. The Department as a creditor is not listed on the current checklist and therefore is not always being paid in accordance with Probate Code.