

FILED MAR 13 1997

SENATE FILE **461**
BY COMMITTEE ON HUMAN RESOURCES

(SUCCESSOR TO SSB 167)

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

A BILL FOR

1 An Act relating to the provision of medical services administered
2 by the department of human services and providing a
3 disqualification for certain services.

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

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S.F. 461

1 Section 1. Section 135C.6, Code 1997, is amended by adding
2 the following new subsection:

3 NEW SUBSECTION. 8A. A residential program which serves
4 not more than fifteen individuals and is licensed as an
5 intermediate care facility for persons with mental retardation
6 under this chapter may surrender the license and continue to
7 operate under a federally approved home and community-based
8 waiver for persons with mental retardation for not more than
9 five years from the date of surrender of the license, if the
10 department has approved a plan submitted by the residential
11 program which provides for compliance within the five-year
12 period with subsection 8, paragraph "a" or "b".

13 Sec. 2. Section 249A.3, subsection 11, Code 1997, is
14 amended by adding the following new paragraph:

15 NEW PARAGRAPH. c. The department shall impose an
16 additional year of ineligibility for medical assistance for
17 all services on an individual who has been convicted of
18 knowingly and willfully disposing of assets in order to be
19 eligible or to become eligible for medical assistance pursuant
20 to 42 U.S.C. § 1320a-7b(a)(6).

21 Sec. 3. Section 249F.1, subsection 2, paragraph b,
22 subparagraph (9), Code 1997, is amended by striking the
23 subparagraph.

24 Sec. 4. Section 249F.3, subsection 1, unnumbered paragraph
25 1, Code 1997, is amended to read as follows:

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

1 transfer of assets, provides that actions initiated under the
2 transfer of assets chapter are not subject to the contested
3 case or further review provisions of chapter 17A but that
4 review of the actions by the district court is an original
5 hearing before the court.

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**SENATE FILE 461
FISCAL NOTE**

A fiscal note for Senate File 461 is hereby submitted pursuant to Joint Rule 17. Data used in developing this fiscal note is available from the Legislative Fiscal Bureau to members of the Legislature upon request.

Senate File 461 provides that a licensed Intermediate Care Facility for the Mentally Retarded (ICF/MR) may surrender its license and continue to operate under a federally-approved Home and Community Based Waiver. The bill also includes provisions relating to the transfer of assets in determining eligibility for Medical Assistance by providing for an additional year of ineligibility for an individual who is convicted of knowingly and willfully disposing of assets to become eligible for Medical Assistance.

ASSUMPTIONS

1. Average daily cost of ICF/MR care is \$239.79 per day in FY 1998.
2. Average daily cost of Home and Community Based care plus day programming, transportation, and case management services is \$187.70 per day in FY 1998.
3. An estimated 40 individuals would change settings from ICF/MR care to a Home and Community Based waiver setting.
4. Cost savings due to the surrender of ICF/MR licenses accrue to counties and the federal government.

FISCAL IMPACT

Because the cost of Home and Community Based services is \$52.09 per day less in FY 1998 and \$55.72 per day less in FY 1999 than the cost of ICF/MR care, allowing ICF/MR facilities to surrender licenses and convert to a Home and Community Based service provider will result in savings to counties and the federal government. There is no General Fund savings due to SF 461 because the State is not responsible for ICF/MR care for adults, only children.

The fiscal effect of Senate File 461 is a net savings to counties of \$292,828 in FY 1998 and \$312,553 in FY 1999. Cost savings to the federal government are projected at \$466,610 in FY 1998 and \$500,001 in FY 1999. The total savings due to SF 461 is estimated at \$759,438 in FY 1998 and \$813,554 in FY 1999. According to the Department of Human Services, the other sections of the Bill do not have a significant fiscal effect.

Source: Department of Human Services

(LSB 1110SV, LCS)

FILED MARCH 17, 1997

BY DENNIS PROUTY, FISCAL DIRECTOR

Schuerer, C
Behu
Dearden

SSB-167
Human Resources

Succeeded By
SENATE/HOUSE FILE SH/HF 461
BY (PROPOSED DEPARTMENT OF
HUMAN SERVICES BILL)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
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A BILL FOR

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1 Section 1. Section 135C.6, Code 1997, is amended by adding
2 the following new subsection:

3 NEW SUBSECTION. 8A. A residential program which serves
4 not more than fifteen individuals and is licensed as an
5 intermediate care facility for persons with mental retardation
6 under this chapter may surrender the license and continue to
7 operate under a federally approved home and community-based
8 waiver for persons with mental retardation for not more than
9 five years from the date of surrender of the license, if the
10 department has approved a plan submitted by the residential
11 program which provides for compliance within the five-year
12 period with subsection 8, paragraph "a" or "b".

13 Sec. 2. Section 249A.3, subsection 11, Code 1997, is
14 amended by adding the following new paragraph:

15 NEW PARAGRAPH. c. The department shall impose an
16 additional year of ineligibility for medical assistance for
17 all services on an individual who has been convicted of
18 knowingly and willfully disposing of assets in order to be
19 eligible or to become eligible for medical assistance pursuant
20 to 42 U.S.C. § 1320a-7b(a)(6).

21 Sec. 3. Section 249F.1, subsection 2, paragraph b,
22 subparagraph (9), Code 1997, is amended by striking the
23 subparagraph.

24 Sec. 4. Section 249F.3, subsection 1, unnumbered paragraph
25 1, Code 1997, is amended to read as follows:

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

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

3 2. The certification shall include true copies of the
4 original notice, the return of service, if applicable, any
5 request for an informal conference, any subsequent notices,
6 the written request for hearing, and true copies of any
7 administrative orders previously entered.

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

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

13 EXPLANATION

14 This bill makes changes in the provisions relating to
15 medical assistance. The bill provides that a licensed
16 intermediate care facility for persons with mental retardation
17 may surrender its license and continue to operate under a
18 federally approved home and community-based waiver for a
19 period of five years from the date of surrender of the license
20 if the facility submits a plan to the department of human
21 services to bring the facility into compliance with the
22 requirements for residential care facilities which are
23 currently exempt from licensure.

24 The bill also includes medical assistance provisions which
25 relate to the transfer of assets in determining eligibility
26 for medical assistance by providing for an additional year of
27 ineligibility for medical assistance for an individual who is
28 convicted of knowingly and willfully disposing of assets to be
29 eligible or to become eligible for medical assistance for all
30 services. The bill eliminates a provision of the Code
31 relating to transfer of a homestead relating to eligibility
32 for medical assistance to reflect federal requirements and to
33 conform with other existing Code provisions. The bill
34 provides a procedure for service of the notice to establish
35 and demand payment of a debt owing the department based upon a

1 transfer of assets, provides that actions initiated under the
2 transfer of assets chapter are not subject to the contested
3 case or further review provisions of chapter 17A but that
4 review of the actions by the district court is an original
5 hearing before the court.

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TERRY E. BRANSTAD, GOVERNOR

DEPARTMENT OF HUMAN SERVICES

CHARLES M. PALMER, DIRECTOR

February 12, 1997

TO: Members of the General Assembly

FROM: Karla F. McHenry, Legislative Liaison

The Department of Human Services is proposing amendments for Iowa Code 249A and 249F related to Medicaid Eligibility and the transfer of assets policies. The changes are being requested to allow the Department to assess an additional year of ineligibility for Medicaid coverage after the applicant or client has been convicted by the U.S. Attorney for inappropriately transferring assets to become eligible for Medicaid. The additional year of ineligibility pertains to all Medicaid services. The change to Section 2 adds the words "all services" and "to become eligible" to specify what services will not be paid and who will be ineligible.

Changes to Iowa Code 249F: 1) Eliminates a section which is inconsistent with federal regulation and contradictory to other parts of the Code. The change will provide uniformity in the application of the exemption applied to transfers of a home. 2) Specifies mailing requirements and how affected parties will be notified if they are impacted by this Code section.

The Department is also proposing amendments to Iowa Code 135C.6 related to the licensure of health care facilities and specifically to residential programs which are not required to be licensed as health care facilities under this chapter.

The change is being requested in order to allow the transition of ICF/MR facilities of up to 15 beds to the non-licensed Home and Community Based Services (HCBS) Program under plans approved by the Iowa Department of Human Services. This change will support the downsizing of the costly ICF/MR Program in favor of the less costly HCBS Waiver Program.