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HUMAN RESOURCES

HOUSE FILE

2244

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FOEGE, and REYNOLDS

Passed House, Date _____ Passed Senate, Date _____

Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____

Approved _____

A BILL FOR

1 An Act relating to the creation of a consolidated and
2 comprehensive system of personal assistance services.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF 2244

1 Section 1. NEW SECTION. 225D.1 TITLE.

2 This chapter shall be known and may be cited as the "Iowa
3 Community Assistance Services Act".

4 Sec. 2. NEW SECTION. 225D.2 PURPOSE.

5 1. The purpose of this chapter is to establish home and
6 community-based services as a viable option for elders and
7 persons with disabilities.

8 2. The purpose of this chapter shall be accomplished
9 through all of the following:

10 a. Establishing a single, coordinated, and comprehensive
11 statewide program of personal assistance services.

12 b. Consolidating existing personal assistance services
13 waiver and pilot programs into an integrated system.

14 c. Reviewing and consolidating long-term care and personal
15 assistance services funding structures.

16 d. Allocating available funds and leveraging available
17 state and other funds for receipt of federal funds.

18 e. Reviewing state administrative rules and redesigning
19 funding structures to encourage community-based personal
20 assistance services in lieu of institutional services.

21 f. Requiring that community-based personal assistance
22 services programs conform to principles ensuring consumer
23 control, choice of service models, availability to eligible
24 consumers, and functional needs-based eligibility regardless
25 of type of disability or age.

26 3. The purpose of this chapter shall also be accomplished
27 by emphasizing the provision of personal assistance services
28 in the workplace and in other settings to promote school-to-
29 work initiatives, workforce development, and the competitive
30 employment of persons with disabilities.

31 Sec. 3. NEW SECTION. 225D.3 DEFINITIONS.

32 For the purposes of this chapter unless the context
33 otherwise requires:

34 1. "Activities of daily living" means personal care
35 activities that are routinely part of daily living, including

1 but not limited to eating, toileting, dressing, grooming,
2 personal hygiene, bathing, transferring, taking medications,
3 managing money, preparing meals, shopping, child care, light
4 housekeeping, using the telephone, and transportation.

5 2. "Agency provider service option" means the method of
6 service provision whereby the personal assistant is employed
7 by a provider agency, supervised and evaluated by the
8 consumer, and the agency is the personal assistant's employer
9 of record.

10 3. "Centers for independent living" means centers for
11 independent living as defined in 29 U.S.C. § 796a.

12 4. "Consumer" means a recipient of personal assistance
13 services.

14 5. "Consumer-directed" means the mode of service delivery
15 that affords the consumer the maximum control to select,
16 manage, train, and dismiss the consumer's personal assistant,
17 regardless of the employer of record, and allows the consumer
18 control over the manner of service delivery.

19 6. "Department" means the department of human services.

20 7. "Disability" means disability as defined in section
21 225C.46.

22 8. "Elder" means an individual fifty-five years of age or
23 older.

24 9. "Employment-related personal assistance services" means
25 the range of services, provided by one or more persons,
26 designed to assist a consumer in performing activities of
27 daily living to enhance the competitive employment of the
28 consumer, whether or not during the course of the workday,
29 that the consumer would typically perform personally, if the
30 consumer did not have a disability.

31 10. "Fiscal intermediary option" means the method of
32 service provision whereby the personal assistant is employed
33 at the pleasure of and is evaluated by the consumer. Under
34 this option, payment for a consumer's personal assistance
35 services is made through a fiscal agent who is not the

1 employer of record.

2 11. "Functional need" means the need for personal
3 assistance based on the abilities and limitations of the
4 consumer, regardless of age, medical diagnosis, or other basis
5 for determining a disability.

6 12. "Health professional" means a person licensed or
7 certified to provide health care services of any kind.

8 13. "Health-related tasks" means tasks performed to
9 preserve or improve health that can safely be performed by a
10 qualified unlicensed person or delegated to a qualified
11 unlicensed person by a health professional, such as dispensing
12 medication, ventilator care, and tube feeding.

13 14. "Independent living environment" means an individual's
14 noninstitutional residence, or other setting where the
15 individual participates in community activities and commerce,
16 including but not limited to education, competitive
17 employment, recreation, and community events.

18 15. "Individualized funding authorization service option"
19 means the method of service provision whereby a capitated cash
20 amount, based on functional need, is assigned to each consumer
21 rather than paid directly to a provider agency, allowing the
22 consumer discretion and flexibility in obtaining personal
23 assistance services and supports.

24 16. "Major life activity" means major life activity as
25 defined in section 225C.46.

26 17. "Personal assistance and family support services
27 council" means the personal assistance and family support
28 services council created in section 225C.48.

29 18. "Personal assistance services" means an action to
30 assist an elder or a person with a disability in accomplishing
31 activities of daily living to compensate for a functional
32 limitation, including but not limited to tasks that the
33 consumer would accomplish personally but for a disability.

34 19. "Personal assistant" means the individual who directly
35 provides personal assistance services.

1 20. "Substantially limits" means substantially limits as
2 defined in section 225C.46.

3 Sec. 4. NEW SECTION. 225D.4 DEVELOPMENT OF
4 NONINSTITUTIONAL PERSONAL ASSISTANCE SERVICES PROGRAM --
5 SERVICES OFFERED.

6 1. The department shall develop a comprehensive program of
7 noninstitutional personal assistance services that provides
8 all of the following:

9 a. Personal care services including but not limited to
10 assistance with bathing and personal hygiene, dressing,
11 grooming, lifting and transferring, feeding, bowel and bladder
12 care, and child care.

13 b. Household chore services, including but not limited to
14 assistance with meal preparation, shopping, cleaning, and
15 laundry.

16 c. Cognitive services including but not limited to
17 assistance with money management, use of medications, reading,
18 writing, interpreting, and cueing related to activities of
19 daily living.

20 d. Services to assist consumers with mobility, including
21 but not limited to escorting and driving.

22 e. Health-related tasks, including but not limited to
23 medical tasks.

24 f. Employment-related services to support working
25 individuals with disabilities, provided to the extent
26 necessary to enable individuals with disabilities to remain
27 employed.

28 g. As necessary and appropriate, and in accordance with
29 consumer choice, other services designed to safeguard the
30 health, safety, and well-being of the consumer.

31 2. The program shall be based on the premise that a
32 consumer, at the consumer's discretion, should be able to
33 avoid institutional placement and to choose the consumer's own
34 preferred mode of noninstitutional personal assistance
35 services.

1 3. The program shall offer consumers a continuum of
2 options in personal assistance services including a consumer-
3 directed option, an agency provider service option, a fiscal
4 intermediary option, and an individualized funding
5 authorization service option.

6 4. Services shall be provided in competitive employment
7 environments, in the home, at school, and in places of
8 commerce in the community.

9 Sec. 5. NEW SECTION. 225D.5 DEVELOPMENT OF PROGRAM
10 SERVICES -- TRANSITION PLAN.

11 The department, in consultation with the department of
12 elder affairs, the Iowa department of public health, the
13 department of workforce development, the department of
14 education, division of vocational rehabilitation, the Iowa
15 state association of counties, and the personal assistance and
16 family support services council, shall convene a planning
17 committee, which includes consumers and family members,
18 advocates of consumers, and providers of services to
19 consumers, to assist in the development of a personal
20 assistance services program based on principles and standards
21 described in this chapter. Implementation of the program
22 shall begin no later than March 1, 2001. The program may be
23 implemented in phases and may initially be implemented on a
24 county or regional basis with a long-term goal of statewide
25 implementation. The program may be implemented as funding
26 becomes available and in accordance with any requirements for
27 expenditure of funding. The initial phase may emphasize
28 workforce development, targeted at a specific age cohort. At
29 a minimum, the program shall include or accomplish all of the
30 following:

31 1. Designate a lead agency to be responsible for
32 administering the personal assistance services program.

33 2. Provide that the personal assistance and family support
34 services policy council assist in the design, implementation,
35 marketing, and evaluation of the state's personal assistance

1 services program.

2 3. Provide a consumer-level administrative oversight and
3 technical assistance mechanism relating to the planning,
4 administrative rules development, and implementation of the
5 personal assistance services program.

6 4. Provide for a transition process, with action steps and
7 time lines, describing how the state will make personal
8 assistance services a viable option that is more cost-
9 effective and responsive to the needs and preferences of
10 consumers.

11 5. Describe a process for consolidating all
12 noninstitutional personal assistance services programs funded
13 through the medical assistance program.

14 6. Describe the type of personal assistance services to be
15 provided under the program.

16 7. Describe the method of delivery of personal assistance
17 services and how such services will be delivered statewide.

18 8. Evaluate the feasibility of further reducing costs and
19 addressing consumer needs and preferences through the
20 provision of auxiliary services such as assistive technology
21 and home modifications.

22 9. Describe a program intake process that will be uniform
23 throughout the state.

24 10. Review and consolidate the eligibility requirements,
25 intake processes, assessment tools, and other relevant
26 processes of all existing personal assistance services waiver
27 and pilot programs into a single, comprehensive system.

28 11. Describe the standards and mechanisms for copayments
29 or cost-sharing and the methods used to determine income
30 eligibility of persons with disabilities and elders.

31 12. Determine quality assurance outcomes and safeguards
32 against physical, emotional, or financial abuse and
33 exploitation.

34 13. Describe the appeal process.

35 14. Describe how the barriers and disincentives that

1 currently discourage people from becoming personal assistants,
2 including low wages, lack of benefits, and lack of
3 certification standards, can be removed.

4 15. Address the issues of provider and consumer liability.

5 16. Describe acceptable methods whereby independent
6 personal assistance services providers may pool resources to
7 ensure adequate coverage provisions for health insurance,
8 liability insurance, and workers' compensation insurance.

9 Sec. 6. NEW SECTION. 225D.6 PROGRAM STANDARDS AND
10 ELIGIBILITY CRITERIA.

11 1. All noninstitutional personal assistance services
12 programs funded through or by the department under this
13 chapter shall meet all of the following minimum standards:

14 a. To the maximum extent possible, consumers, at the
15 individual consumer's discretion, shall select, manage, and
16 control the consumer's personal assistance services and shall
17 be provided consistency of services.

18 b. Eligibility shall be based on functional need, rather
19 than medical diagnosis, type of disability, or age.

20 c. Services shall be provided in consumers' homes and
21 other independent living environments, schools, places of
22 employment, community recreational settings, and in places of
23 commerce in the community such as banks, grocery stores, and
24 shops.

25 d. The service system shall be capable of providing
26 personal assistance services twenty-four hours a day, seven
27 days a week, and when necessary, provide substitute and
28 emergency personal assistance services.

29 e. Copayments and cost-sharing shall be required of
30 eligible consumers whose adjusted gross income exceeds one
31 hundred fifty percent of the federal poverty level as defined
32 by the most recently revised poverty income guidelines
33 published by the United States department of health and human
34 services. Copayments and cost-sharing requirements shall be
35 structured so that they are not a disincentive to competitive

1 employment. The amount of the premium shall be based on a
2 sliding fee scale adopted by rule of the department and shall
3 be based on a percentage of the consumer's income.

4 f. The consumer shall determine the consumer's own
5 schedule of services, with assistance from the department or
6 centers for independent living personnel. The schedule shall
7 specify types and frequency of services and supports.
8 Consumers shall be provided an opportunity to choose between
9 different service delivery options including the agency
10 provider service option, the fiscal intermediary option, the
11 individualized funding authorization service option, and the
12 consumer-directed option. To the maximum extent possible and
13 allowed under federal law, consumers may select and hire their
14 own personal assistants, including family members.

15 g. Provision shall be made for consumers to be offered
16 training in financial management relating to the expense of
17 managing personal assistance services and training relating to
18 selection, management, and dismissal of personal assistants.

19 2. The department shall ensure that consumers are fully
20 informed of and accorded their rights and options with respect
21 to selecting, managing, and changing their personal assistance
22 services and their rights to privacy and confidentiality.
23 Consumers shall have a right of appeal. The department shall
24 adopt rules, pursuant to chapter 17A, regarding the appeal
25 process to be provided pursuant to this subsection.

26 3. A consumer shall be eligible for personal assistance
27 services under this chapter if the consumer is of any age and
28 meets any of the following criteria:

29 a. Is an individual with a disability including cognitive,
30 psychiatric, sensory, or physical disability.

31 b. Is an individual with a functional need that
32 substantially limits one or more of the major life activities.

33 c. Is an individual who has a functional need that limits
34 ability to perform one or more activities of daily living.

35 d. Is an individual who needs assistance with the

1 performance of health-related tasks.

2 4. A comprehensive assessment, which includes the
3 consumer's self-evaluation of the consumer's needs and
4 abilities, shall be made for the purpose of all of the
5 following:

6 a. To determine the level of personal assistance services
7 needed and wanted by the consumer.

8 b. To establish a monthly allocation for payment of such
9 services.

10 c. To establish the required personal assistance services
11 contract between the consumer and the consumer's personal
12 assistant.

13 5. A provider of personal assistance services shall not
14 complete the comprehensive assessment.

15 6. The department shall establish a uniform mechanism to
16 assess eligibility for personal assistance services, subject
17 to the approval of the personal assistance and family support
18 services council.

19 Sec. 7. NEW SECTION. 225D.7 PERSONAL ASSISTANCE SERVICES
20 CONTRACTS.

21 1. An initial personal assistance services contract shall
22 be developed between the consumer and the consumer's personal
23 assistant, prior to any payment disbursement by the state for
24 personal assistance services under this chapter, and shall be
25 updated annually, at a minimum, and when changes occur. The
26 contract shall meet all of the following requirements:

27 a. Be developed with the consumer or the consumer's
28 representative, and, if appropriate, the family of the
29 consumer, in conjunction with the personal assistant.

30 b. Be approved by the consumer or, if appropriate, the
31 consumer's representative, and the personal assistant.

32 2. The consumer and the personal assistant shall each be
33 provided with a copy of the contract.

34 3. The consumer shall provide a copy of the contract to
35 the department.

1 4. The personal assistance services contract shall specify
2 all of the following:

3 a. The scope of personal assistance services to be
4 provided.

5 b. The duties of the employer of record.

6 c. The duties of the personal assistant.

7 d. By whom and how the personal assistant will be trained.

8 e. The method of payment for services.

9 f. The amount of any copayment amount or cost-sharing.

10 g. The number of hours of services to be provided.

11 h. The method of service delivery.

12 i. The means of ensuring substitute and emergency personal
13 assistance services and the method of accessing these
14 services.

15 j. Emergency, illness, and absence procedures relative to
16 the personal assistant.

17 k. The initial assessment and frequency of reassessment of
18 the needs of the consumer.

19 l. The means to adjust services and hours when changes are
20 needed.

21 m. The personal assistant's use of personal items, if any.

22 n. A mechanism to coordinate personal assistance services
23 with other health care services received by the consumer.

24 o. The degree and frequency of supervision of the personal
25 assistant necessary for the effective delivery of personal
26 assistance services and identification of the provider of
27 supervision.

28 p. Outcome measures used to assess the quality of
29 services.

30 q. Complaint and appeal procedures.

31 r. The method for termination of services.

32 Sec. 8. NEW SECTION. 225D.8 QUALITY ASSURANCE AND
33 SAFEGUARDS.

34 1. The department and the personal assistance and family
35 support services council shall develop a quality mechanism to

1 be used by the consumer and an ombudsperson to assess service
2 quality.

3 2. The service quality mechanism shall be based on
4 consumer satisfaction of services provided and the life
5 outcomes of a consumer.

6 3. The services quality mechanism shall, at a minimum,
7 measure the extent to which the personal assistance services
8 provided accomplish all of the following:

9 a. Meet the health and safety needs of the consumer while
10 recognizing that risk taking by the consumer is an important
11 freedom and facilitates self-reliance.

12 b. Provide for meaningful input by the consumer or the
13 consumer's representative.

14 c. Adhere to contractual requirements to meet the
15 individual needs of the consumer.

16 d. Safeguard the consumer from abuse, neglect, and
17 exploitation while respecting personal choice.

18 e. Ensure all of the following:

19 (1) Training to the consumer or the consumer's
20 representative relating to the hiring, supervision, and
21 training of personal assistants, and the responsibilities of
22 an employer of record.

23 (2) Consumer access to background information concerning
24 prospective and current personal assistants from the state's
25 abuse registry, driver's license information, criminal record,
26 and workers' compensation claims history.

27 Sec. 9. NEW SECTION. 225D.9 HEALTH-RELATED PERSONAL
28 ASSISTANCE BY QUALIFIED NONMEDICAL PERSONNEL.

29 All personal assistance services delivery options shall
30 provide a mechanism that allows for the delivery of health-
31 related personal assistance services to consumers in the
32 consumer's independent living environment and in the workplace
33 through any of the following:

34 1. Consumer-directed training of unlicensed persons to
35 provide health-related tasks.

1 2. Physician delegation of tasks to a qualified unlicensed
2 person.

3 3. Nurse delegation of tasks to a qualified unlicensed
4 person.

5 Sec. 10. NEW SECTION. 225D.10 COPAYMENTS AND COST-
6 SHARING FOR SERVICES.

7 1. The department shall develop a mechanism for copayment
8 and cost-sharing for personal assistance services for
9 consumers whose adjusted gross income is above one hundred and
10 fifty percent of the federal poverty level as defined by the
11 most recently revised poverty income guidelines published by
12 the United States department of health and human services.
13 Priority in serving eligible consumers shall be given to
14 consumers whose income is at or below two hundred and fifty
15 percent of the federal poverty level as defined by the most
16 recently revised poverty income guidelines published by the
17 United States department of health and human services.

18 Sec. 11. NEW SECTION. 225D.11 EXISTING PROGRAMS --
19 CONSOLIDATION -- FUNDING -- RIGHTS OF CONSUMERS.

20 1. On or before October 1, 2000, the department shall, in
21 conjunction with the health care financing administration of
22 the United States department of health and human services,
23 review and develop a plan for consolidation and coordination
24 of funding mechanisms and expenditures relative to health care
25 facility services, intermediate care facilities for persons
26 with mental retardation services, all covered home and
27 community-based services provided under section 1915(c) of the
28 federal Social Security Act, services provided under the
29 personal care option of the medical assistance program, and
30 frail elderly program services. The plan shall provide for
31 consolidation and coordination of funding mechanisms and
32 expenditures in order to provide funding for the personal
33 assistance services described in this chapter.

34 2. On or before March 1, 2001, the department shall
35 consolidate all existing personal assistance services pilot

1 and waiver programs into a single, coordinated, and integrated
2 system of personal assistance services.

3 3. The department shall develop the consolidated plan in a
4 manner that capitalizes on and leverages federal funding to
5 the maximum extent possible under the federal Ticket to Work
6 and Work Incentives Improvement Act of 1999, Pub. L. No. 106-
7 170.

8 4. Funds allocated to the personal assistance services
9 pilot program established pursuant to section 225C.46, through
10 the department, shall be redirected to be used as state
11 matching funds for federal funds under the medical assistance
12 program.

13 5. Funds allocated for home and community-based personal
14 attendant services under Title III of the federal Older
15 Americans Act and the social services block grant under Title
16 XX of the federal Social Security Act shall be used for home
17 and community-based personal assistance services described in
18 this chapter.

19 6. The department shall redirect all cost-savings derived
20 from the consolidation of all noninstitutional personal
21 assistance services programs to be used as state matching
22 funds under the medical assistance program.

23 7. If funds are reallocated from health care facility
24 services, intermediate care facilities for persons with mental
25 retardation or other institutional services, to
26 noninstitutional personal assistance services, the department
27 shall provide a procedure for decertifying a specified number
28 of health care facility beds, intermediate care facilities for
29 persons with mental retardation beds, and other institutional
30 beds, according to a process jointly developed by the relevant
31 state departments, advocates representing health care
32 facilities and intermediate care facilities for persons with
33 mental retardation residents and their families, and
34 representatives of the health care facility and community
35 rehabilitation program industry.

1 8. A resident of an institution who wishes to remain in an
2 institutional setting shall not be required to receive
3 personal assistance services in a noninstitutional setting
4 under this chapter.

5 9. Consumers participating in the personal assistance
6 services pilot program on or before July 1, 2000, administered
7 by the department, shall not be terminated from services as a
8 result of this chapter.

9 10. This chapter does not create an entitlement to any
10 funds available under this chapter, and funds shall only be
11 expended to the extent funds are available.

12 Sec. 12. Section 225C.48, subsection 1, Code 1999, is
13 amended to read as follows:

14 1. ~~An eleven-member~~ A thirteen-member personal assistance
15 and family support services council is created in the
16 department. The members of the council shall be appointed by
17 the following officials as follows: governor, ~~five~~ seven
18 members; majority leader of the senate, three members; and
19 speaker of the house, three members. At least ~~three~~ five of
20 the governor's appointments and one of each legislative
21 chamber's appointments shall be ~~a family member of an~~
22 ~~individual with a disability as~~ family members of or advocates
23 for persons with disabilities, as disability is defined in
24 section 225C.47 or family members of or advocates for elders
25 as defined in section 225D.3. At least five of the members
26 shall be consumers of personal services including both
27 consumers who are persons with disabilities and elders.

28 Members shall serve for three-year staggered terms. A vacancy
29 on the council shall be filled in the same manner as the
30 original appointment. The members of the council shall be
31 entitled to reimbursement of actual and necessary expenses
32 incurred in the performance of their official duties. The
33 council shall elect officers from among the council's members.

34 Sec. 13. Section 225C.48, Code 1999, is amended by adding
35 the following new subsection:

1 NEW SUBSECTION. 3A. The council shall, in cooperation
2 with the department, the department of elder affairs, and the
3 Iowa department of public health, assist in the design,
4 implementation, marketing, and evaluation of the personal
5 assistance services program pursuant to chapter 225D.

6

EXPLANATION

7 This bill provides for the establishment of a comprehensive
8 system of personal assistance services for elders and persons
9 with disabilities. The bill creates a new Code chapter 225D.
10 Code section 225D.1 provides that the chapter shall be
11 known and may be cited as the "Iowa Community Assistance
12 Services Act".

13 Code section 225D.2 provides the purpose of the chapter and
14 specifies the means for accomplishing the purpose.

15 Code section 225D.3 provides definitions necessary to the
16 chapter.

17 Code section 225D.4 directs the department of human
18 services to develop a comprehensive program of
19 noninstitutional personal assistance services and specifies
20 the services to be included.

21 Code section 225D.5 provides for the development of the
22 program and a transition plan to consolidate the various
23 existing personal assistance services options. The program is
24 to be developed by the department of human services in
25 consultation with the department of elder affairs, the Iowa
26 department of public health, and the personal assistance and
27 family support services council. The program is to be
28 implemented no later than March 1, 2001.

29 Code section 225D.6 provides program standards and program
30 eligibility criteria.

31 Code section 225D.7 provides for personal assistance
32 services contracts between consumers and personal assistants.

33 Code section 225D.8 provides for quality assurance and
34 safeguards relating to personal assistance services.

35 Code section 225D.9 provides for delivery of health-related

1 personal assistance services by nonmedical personnel.

2 Code section 225D.10 provides for copayments and cost-
3 sharing for consumers whose adjusted gross income is a certain
4 percentage of the federal poverty level.

5 Code section 225D.11 relates to the consolidation and
6 coordination of existing personal assistance and other
7 services in relation to the new chapter and provides that no
8 entitlements are created by the new chapter.

9 The bill also makes conforming changes in the Code relating
10 to the membership and duties of the personal assistance and
11 family support services council.

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