

*Boal
Davis
Kreiman*

HSB 616

HUMAN RESOURCES' d By
Sr AMR 2321

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, including eligibility
2 categories and transfer of assets.

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

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1 Section 1. Section 249A.3, subsection 2, Code Supplement
2 1999, is amended by adding the following new paragraph:

3 NEW PARAGRAPH. j. Children for whom the court has entered
4 an order transferring guardianship under section 232.104,
5 subsection 2, paragraph "d", subparagraph (1), and for whom
6 subsidized guardianship assistance is being paid by the
7 department.

8 Sec. 2. Section 249A.3, subsection 8, paragraph c, Code
9 Supplement 1999, is amended to read as follows:

10 c. A specified low-income Medicare beneficiary as defined
11 under Title XIX of the federal Social Security Act, section
12 1902(a)(10)(E)(iii), as codified in 42 U.S.C. §
13 1396a(a)(10)(E)(iii).

14 Sec. 3. Section 249A.3, subsection 8, Code Supplement
15 1999, is amended by adding the following new paragraphs:

16 NEW PARAGRAPH. d. An additional specified low-income
17 Medicare beneficiary as described under Title XIX of the
18 federal Social Security Act, section 1902(a)(10)(E)(iv)(I), as
19 codified in 42 U.S.C. § 1396a(a)(10)(E)(iv)(I).

20 NEW PARAGRAPH. e. An additional specified low-income
21 Medicare beneficiary described under Title XIX of the federal
22 Social Security Act, section 1902(a)(10)(E)(iv)(II), as
23 codified in 42 U.S.C. § 1396a(a)(10)(E)(iv)(II).

24 Sec. 4. Section 249A.3, subsection 11, Code Supplement
25 1999, is amended by adding the following new paragraphs:

26 NEW PARAGRAPH. c. A disclaimer of any property, interest,
27 or right pursuant to section 633.704 constitutes a transfer of
28 assets for the purpose of determining eligibility for medical
29 assistance in an amount equal to the value of the property,
30 interest, or right disclaimed.

31 NEW PARAGRAPH. d. Failure of a surviving spouse to take
32 against a will pursuant to chapter 633, division V,
33 constitutes a transfer of assets for the purpose of
34 determining eligibility for medical assistance to the extent
35 that the value received by taking against the will would have

1 exceeded the value of the inheritance received under the will.

2 Sec. 5. Section 249F.1, subsection 2, paragraph b,
3 subparagraph (5), Code 1999, is amended to read as follows:

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

13 Sec. 6. Section 249F.1, subsection 2, paragraph b,
14 subparagraph (9), Code 1999, is amended by striking the
15 subparagraph.

16 Sec. 7. NEW SECTION. 249F.6A EXEMPTION FROM CHAPTER 17A.

17 Actions initiated under this chapter are not subject to
18 chapter 17A. Review by the district court shall be an
19 original hearing before the district court.

20 Sec. 8. NEW SECTION. 633.246A MEDICAL ASSISTANCE
21 ELIGIBILITY.

22 Failure of a surviving spouse to take against a will under
23 this division constitutes a transfer of assets for the purpose
24 of determining eligibility for medical assistance pursuant to
25 chapter 249A to the extent that the value received by taking
26 against the will would have exceeded the value of the
27 inheritance received under the will.

28 Sec. 9. Section 633.704, Code Supplement 1999, is amended
29 by adding the following new subsection:

30 NEW SUBSECTION. 4A. MEDICAL ASSISTANCE ELIGIBILITY. A
31 disclaimer of any property, interest, or right under this
32 section constitutes a transfer of assets for the purpose of
33 determining eligibility for medical assistance under chapter
34 249A, in an amount equal to the value of the property,
35 interest, or right disclaimed.

EXPLANATION

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This bill amends portions of the Code relating to medical assistance.

The bill provides for three additions to the eligibility categories for medical assistance and corrects a reference to an existing eligibility category.

The first medical assistance eligibility category added under the bill includes children under the subsidized guardianship program. These are children who are not able to return home, who are not being adopted, who have been placed with a guardian in a court-approved home, and for whom the guardian is receiving payment through the department's subsidized guardianship program.

The remaining two eligibility categories added under the bill relate to coverage for certain Medicare beneficiaries. Coverage of these categories of individuals was mandated in the federal Balanced Budget Act of 1997, to be effective January 1998. To date, this required coverage has been implemented under administrative rules. The bill would codify existing practice. The first of the required coverage categories of eligibles, additional specified low-income Medicare beneficiaries, includes individuals whose income is at least 120 percent but less than 135 percent of the federal poverty level. For these individuals, coverage would provide for payment of the full Medicare part B premium. Part B covered services include physician and other medical services, outpatient hospital care, ambulatory surgical services, home health, clinical diagnostic laboratory services, and preventive services. The second of the required categories of eligibles, home health for specified low-income Medicare beneficiaries, includes individuals whose income is at least 135 percent but not more than 175 percent of the official poverty level. For these individuals, coverage would provide for payment of only the home health portion of the Medicare part B premium.

1 The bill also addresses disclaimers of inheritance and
2 failure of a spouse to take against a will under the probate
3 code, as these mechanisms relate to transfer of assets
4 policies when establishing eligibility under the medical
5 assistance program. Current use of these mechanisms could
6 allow a person to avoid receiving assets resulting in the
7 person being erroneously eligible for medical assistance. The
8 bill establishes that under the probate code, a disclaimer of
9 property, interest, or right constitutes a transfer of assets,
10 in determining medical assistance eligibility, in the amount
11 of the value of the property, interest, or right. The bill
12 also provides that failure of a spouse to take against a will
13 constitutes a transfer of assets, in determining medical
14 assistance eligibility, to the extent the value received by
15 taking against the will would have exceeded the value of the
16 inheritance received under the will. The bill provides
17 conforming language in both the medical assistance chapter
18 (Code chapter 249A) and in the probate code chapter (Code
19 chapter 633).

20 The bill also includes changes relating to transfer of
21 assets relating to medical assistance debt. The bill corrects
22 the exemption of transfers of assets of less than \$2,000 per
23 calendar year to instead provide for exemption of a transfer
24 of assets of \$2,000 over the five-year look back period, which
25 is consistent with federal law. The bill also eliminates a
26 provision which would exempt the transfer of a homestead to
27 any person rather than just to those persons exempt under
28 federal law. Other existing provisions in the Code remain to
29 allow for the federally required exemptions relating to
30 transfer of a homestead. The bill also provides that actions
31 initiated under the transfer of assets for medical assistance
32 debt chapter (Code chapter 249F) are not subject to Code
33 chapter 17A and that review by the district court would be an
34 original hearing before the court.



THOMAS J. VILSACK, GOVERNOR
SALLY J. PEDERSON, LT. GOVERNOR

DEPARTMENT OF HUMAN SERVICES
JESSIE K. RASMUSSEN, DIRECTOR

Date: January 21, 2000

To: General Assembly

From: Karla Fultz McHenry *Karla Fultz McHenry*
Legislative Liaison

The Department of Human Services proposes the following changes:

1. Updates the code of Iowa per 1999 legislation. IAC 249A.3(2) provides medical assistance to children who leave a foster care placement with a court ordered guardian and the guardian receives a subsidy payment from the Department of Human Services.
2. Updates the code of Iowa by adding two Medicaid eligibility categories to the Iowa Code 249.A3(8), new sections, d and e. Sections d and e are in addition to the specified low income Medicare beneficiary coverage group already in section c. Subsection d, for "expanded specified low income Medicare beneficiaries" pays the Medicare Part B premium. Subsection e, for "home health specified low income Medicare beneficiaries" provides for payment of the home health portion of the Medicare Part B premium. These coverage groups were federally mandated and were effective January 1, 1998. The coverage groups have a 100% FFP.
3. 249A Establishes that a disclaimer of property, interest or right under the probate code constitutes a transfer of assets in determining medical assistance eligibility. Provides that failure of a spouse to take against a will constitutes a transfer of assets in determining medical assistance eligibility. Corrects the exemption under chapter 249F for transfer of assets of less than \$2000 per calendar year to instead provide for exemption of a transfer of assets of \$2000 over the five year (60 months) look back period. Eliminates a provision in chapter 249F that exempts the transfer of a homestead to any person rather than just to those person exempt under federal law. Transfers of a homestead to spouses, disabled or minor children, to children who provided care that kept the parent from earlier admission to the nursing facility, or to siblings who lived with the transferor for a specified time period continued to be exempt under another subsection. Remaining changes establish formal procedures consistent with the laws of civil procedures and exempts chapter 249F from chapter 17A.

3/13/00 *Human Resource*
3/15/00 *Do Pass*

Place On Calendar

HOUSE FILE **2321**
BY COMMITTEE ON HUMAN RESOURCES

(SUCCESSOR TO HSB 616)

Passed House, ^(P.696) Date 3-13-00 Passed Senate, ^(P.773) Date 3-21-00
Vote: Ayes 99 Nays 0 Vote: Ayes 47 Nays 0
Approved April 6, 2000

Repassed 3-23-00
Vote 100-0

A BILL FOR

1 An Act relating to medical assistance, including eligibility
2 categories and transfer of assets.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

HOUSE FILE 2321

S-5184

- 1 Amend House File 2321, as passed by the House, as
- 2 follows:
- 3 1. Page 1, by striking lines 1 through 7.
- 4 2. By renumbering as necessary.

By MAGGIE TINSMAN

S-5184 FILED MARCH 21, 2000

ADOPTED (P.773)

SENATE AMENDMENT TO HOUSE FILE 2321

H-8437

- 1 Amend House File 2321, as passed by the House, as
- 2 follows:
- 3 1. Page 1, by striking lines 1 through 7.
- 4 2. By renumbering as necessary.

RECEIVED FROM THE SENATE

H-8437 FILED MARCH 21, 2000

House Concurred 3/23/00 (P.955)

HF 2321

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13 ~~1396a~~ 1396a(a)(10)(E)(iii).

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27 or right pursuant to section 633.704 constitutes a transfer of
28 assets for the purpose of determining eligibility for medical
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30 interest, or right disclaimed.

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31 disclaimer of any property, interest, or right under this
32 section constitutes a transfer of assets for the purpose of
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EXPLANATION

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24 poverty level. For these individuals, coverage would provide
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26 covered services include physician and other medical services,
27 outpatient hospital care, ambulatory surgical services, home
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29 preventive services. The second of the required categories of
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21 assets relating to medical assistance debt. The bill corrects
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28 federal law. Other existing provisions in the Code remain to
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31 initiated under the transfer of assets for medical assistance
32 debt chapter (Code chapter 249F) are not subject to Code
33 chapter 17A and that review by the district court would be an
34 original hearing before the court.

35

HOUSE FILE 2321

AN ACT
RELATING TO MEDICAL ASSISTANCE, INCLUDING ELIGIBILITY
CATEGORIES AND TRANSFER OF ASSETS.

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

Section 1. Section 249A.3, subsection 8, paragraph c, Code Supplement 1999, is amended to read as follows:

c. A specified low-income Medicare beneficiary as defined under Title XIX of the federal Social Security Act, section 1902(a)(10)(E)(iii), as codified in 42 U.S.C. § 1396a(a)(10)(E)(iii).

Sec. 2. Section 249A.3, subsection 8, Code Supplement 1999, is amended by adding the following new paragraphs:

NEW PARAGRAPH. d. An additional specified low-income Medicare beneficiary as described under Title XIX of the federal Social Security Act, section 1902(a)(10)(E)(iv)(I), as codified in 42 U.S.C. § 1396a(a)(10)(E)(iv)(I).

NEW PARAGRAPH. e. An additional specified low-income Medicare beneficiary described under Title XIX of the federal Social Security Act, section 1902(a)(10)(E)(iv)(II), as codified in 42 U.S.C. § 1396a(a)(10)(E)(iv)(II).

Sec. 3. Section 249A.3, subsection 11, Code Supplement 1999, is amended by adding the following new paragraphs:

NEW PARAGRAPH. c. A disclaimer of any property, interest, or right pursuant to section 633.704 constitutes a transfer of assets for the purpose of determining eligibility for medical assistance in an amount equal to the value of the property, interest, or right disclaimed.

NEW PARAGRAPH. d. Failure of a surviving spouse to take against a will pursuant to chapter 633, division V, constitutes a transfer of assets for the purpose of determining eligibility for medical assistance to the extent that the value received by taking against the will would have exceeded the value of the inheritance received under the will.

Sec. 4. Section 249F.1, subsection 2, paragraph b, subparagraph (5), Code 1999, is amended to read as follows:

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

Sec. 5. Section 249F.1, subsection 2, paragraph b, subparagraph (9), Code 1999, is amended by striking the subparagraph.

Sec. 6. NEW SECTION. 249F.6A EXEMPTION FROM CHAPTER 17A. Actions initiated under this chapter are not subject to chapter 17A. Review by the district court shall be an original hearing before the district court.

Sec. 7. NEW SECTION. 633.246A MEDICAL ASSISTANCE ELIGIBILITY.

Failure of a surviving spouse to take against a will under this division constitutes a transfer of assets for the purpose of determining eligibility for medical assistance pursuant to chapter 249A to the extent that the value received by taking against the will would have exceeded the value of the inheritance received under the will.

Sec. 8. Section 633.704, Code Supplement 1999, is amended by adding the following new subsection:

NEW SUBSECTION. 4A. MEDICAL ASSISTANCE ELIGIBILITY. A disclaimer of any property, interest, or right under this section constitutes a transfer of assets for the purpose of determining eligibility for medical assistance under chapter 249A, in an amount equal to the value of the property, interest, or right disclaimed.

BRENT SIEGRIST
Speaker of the House

MARY E. KRAMER
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 2321, Seventy-eighth General Assembly.

ELIZABETH ISAACSON
Chief Clerk of the House

Approved 4/6, 2000

THOMAS J. VILSACK
Governor