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Place On Calendar

HOUSE FILE 2380
BY COMMITTEE ON HUMAN RESOURCES

(SUCCESSOR TO HF 2244)

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 2380

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 persons with
7 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.

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 g. Assuring the provision of personal assistance services
27 in the workplace and in other settings to promote school-to-
28 work initiatives, workforce development, and the competitive
29 employment of persons with disabilities.

30 h. Assuring the provision of personal assistance services
31 in consumers' homes and in community locations including
32 schools, places of commerce, and other community settings.

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

34 For the purposes of this chapter unless the context
35 otherwise requires:

1 1. "Activities of daily living" means personal care
2 activities that are routinely part of daily living, including
3 but not limited to eating, toileting, dressing, grooming,
4 personal hygiene, bathing, transferring, taking medications,
5 managing money, preparing meals, shopping, child care, light
6 housekeeping, using the telephone, and transportation.

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

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

14 4. "Consumer" means a recipient of personal assistance
15 services.

16 5. "Department" means the department of human services.

17 6. "Disability" means disability as defined in section
18 225C.46.

19 7. "Employment-related personal assistance services" means
20 the range of services, provided by one or more persons,
21 designed to assist a consumer on-the-job or off-the-job in
22 performing activities of daily living to enhance the
23 competitive employment of the consumer, whether or not during
24 the course of the workday, that the consumer would typically
25 perform personally, if the consumer did not have a disability.

26 8. "Fiscal intermediary option" means the method of
27 service provision whereby the personal assistant is employed
28 at the pleasure of and is supervised by the consumer. Under
29 this option, payment for a consumer's personal assistance
30 services is made through a fiscal agent who is not the
31 employer of record.

32 9. "Functional need" means the need for personal
33 assistance based on the abilities and limitations of the
34 consumer, regardless of age, medical diagnosis, or other basis
35 for determining a disability.

1 10. "Health professional" means a person licensed or
2 certified to provide health care services of any kind.

3 11. "Health-related tasks" means tasks performed to
4 preserve or improve health that can safely be performed by a
5 qualified unlicensed person or delegated to a qualified
6 unlicensed person by a health professional, including but not
7 limited to dispensing medication, ventilator care, and tube
8 feeding.

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

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

20 14. "Major life activity" means major life activity as
21 defined in section 225C.46.

22 15. "Personal assistance and family support services
23 council" means the personal assistance and family support
24 services council created in section 225C.48.

25 16. "Personal assistance services" means an action to
26 assist a person with a disability in accomplishing activities
27 of daily living to compensate for a functional limitation,
28 including but not limited to tasks that the consumer would
29 accomplish personally but for a disability.

30 17. "Personal assistant" means the individual who directly
31 provides personal assistance services.

32 18. "Substantially limits" means substantially limits as
33 defined in section 225C.46.

34 Sec. 4. NEW SECTION. 225D.4 DEVELOPMENT OF
35 NONINSTITUTIONAL PERSONAL ASSISTANCE SERVICES PROGRAM --

1 SERVICES OFFERED.

2 1. The department shall develop a comprehensive program of
3 noninstitutional personal assistance services that provides
4 all of the following:

5 a. Personal care services including but not limited to
6 assistance with bathing and personal hygiene, dressing,
7 grooming, lifting and transferring, feeding, bowel and bladder
8 care, and child care.

9 b. Household chore services, including but not limited to
10 assistance with meal preparation, shopping, cleaning, and
11 laundry.

12 c. Cognitive services including but not limited to
13 assistance with money management, use of medications, reading,
14 writing, interpreting, and cueing related to activities of
15 daily living.

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

18 e. Health-related tasks, including but not limited to
19 medical tasks.

20 f. Employment-related services to support working
21 individuals with disabilities, provided to the extent
22 necessary to enable individuals with disabilities to remain
23 employed.

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

27 2. The program shall be based on the premise that a
28 consumer, at the consumer's discretion, chooses the consumer's
29 own preferred mode of noninstitutional personal assistance
30 services. At the consumer's discretion, the consumer should
31 be able to avoid or discontinue an institutional placement.

32 3. The program shall offer consumers a continuum of
33 options in personal assistance services including an agency
34 provider service option, a fiscal intermediary option, and an
35 individualized funding authorization service option.

1 4. Services shall be provided in competitive employment
2 environments, in the home, at school, and in places of
3 commerce in the community.

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

6 The department, in consultation with the department of
7 elder affairs, the Iowa department of public health, the
8 department of workforce development, the department of
9 education, division of vocational rehabilitation, the
10 department of economic development, the Iowa state association
11 of counties, and the personal assistance and family support
12 services council, shall convene a planning committee, which
13 includes consumers and family members, advocates of consumers,
14 and providers of services to consumers, to assist in the
15 development of a personal assistance services program based on
16 principles and standards described in this chapter.

17 Implementation of the transition phase of the program shall
18 begin no later than March 1, 2001. The department shall
19 complete the plan for full implementation of the program as
20 provided in section 225D.11. The department shall amend the
21 state plan for the medical assistance program approved in
22 accordance with federal law to include personal care and the
23 plan amendment shall be effective on or before January 1,
24 2002. At a minimum, the program shall include or accomplish
25 all of the following:

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

28 2. Provide that the personal assistance and family support
29 services policy council assist in the design, implementation,
30 marketing, and evaluation of the state's personal assistance
31 services program.

32 3. Provide a consumer-level administrative oversight and
33 technical assistance mechanism relating to the planning,
34 administrative rules development, and implementation of the
35 personal assistance services program.

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

6 5. Describe a process for consolidating all
7 noninstitutional personal assistance services programs funded
8 through the medical assistance program.

9 6. Describe the type of personal assistance services to be
10 provided under the program.

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

13 8. Evaluate the feasibility of further reducing costs and
14 addressing consumer needs and preferences through the
15 provision of auxiliary services such as assistive technology
16 and home modifications.

17 9. Describe a program intake process that will be uniform
18 throughout the state.

19 10. Review and consolidate the eligibility requirements,
20 intake processes, assessment tools, and other relevant
21 processes of all existing personal assistance services waiver
22 and pilot programs into a single, comprehensive system.

23 11. Describe the standards and mechanisms for copayments
24 or cost-sharing and the methods used to determine income
25 eligibility of persons with disabilities.

26 12. Determine quality assurance outcomes and safeguards
27 against physical, emotional, or financial abuse and
28 exploitation.

29 13. Describe the appeal process.

30 14. Describe how the barriers and disincentives that
31 currently discourage people from becoming personal assistants
32 can be removed.

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

34 16. Describe acceptable methods whereby independent
35 personal assistance services providers may pool resources to

1 ensure adequate coverage provisions for health insurance,
2 liability insurance, and workers' compensation insurance.

3 Sec. 6. NEW SECTION. 225D.6 PROGRAM STANDARDS AND
4 ELIGIBILITY CRITERIA.

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

8 a. To the maximum extent possible, consumers, at the
9 individual consumer's discretion, shall select, manage, and
10 control the consumer's personal assistance services and shall
11 be provided consistency of services.

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

14 c. Services shall be provided in consumers' homes and
15 other independent living environments, schools, places of
16 employment, community recreational settings, and in places of
17 commerce in the community such as banks, grocery stores, and
18 shops.

19 d. The service system shall be capable of providing
20 personal assistance services twenty-four hours a day, seven
21 days a week, and when necessary, provide substitute and
22 emergency personal assistance services.

23 e. Copayment and cost-sharing requirements shall be
24 developed in accordance with section 225D.10, be structured so
25 they are not a disincentive to competitive employment, and
26 apply amounts that are based on a sliding fee scale adopted by
27 rule of the department according to a percentage of the
28 consumer's income.

29 f. The consumer shall determine the consumer's own
30 schedule of services. The schedule shall specify types and
31 frequency of services and supports. Consumers shall be
32 provided an opportunity to choose between different service
33 delivery options including the agency provider service option,
34 the fiscal intermediary option, and the individualized funding
35 authorization service option. To the maximum extent possible

1 and allowed under federal law, consumers may select and hire
2 their own personal assistants, including family members.

3 g. Provision shall be made for consumers to be offered
4 training in financial management relating to the expense of
5 managing personal assistance services and training relating to
6 selection, management, and dismissal of personal assistants.

7 2. The department shall ensure that consumers are fully
8 informed of and accorded their rights and options with respect
9 to selecting, managing, and changing their personal assistance
10 services and their rights to privacy and confidentiality.

11 Consumers shall have a right of appeal. The department shall
12 adopt rules, pursuant to chapter 17A, regarding the appeal
13 process to be provided pursuant to this subsection.

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

17 a. Is an individual with a disability including cognitive,
18 psychiatric, sensory, or physical disability.

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

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

23 d. Is an individual who needs assistance with the
24 performance of health-related tasks.

25 4. A comprehensive assessment, which includes the
26 consumer's self-evaluation of the consumer's needs and
27 abilities, shall be made for the purpose of all of the
28 following:

29 a. To determine the level of personal assistance services
30 needed and wanted by the consumer.

31 b. To establish a monthly allocation for payment of such
32 services.

33 c. To establish the required personal assistance services
34 contract between the consumer and the consumer's personal
35 assistant.

1 5. A provider of personal assistance services shall not
2 complete the comprehensive assessment.

3 6. The department shall establish a uniform mechanism to
4 assess eligibility for personal assistance services, subject
5 to the approval of the personal assistance and family support
6 services council.

7 Sec. 7. NEW SECTION. 225D.7 PERSONAL ASSISTANCE SERVICES
8 CONTRACTS.

9 1. An initial personal assistance services contract shall
10 be developed between the consumer and the consumer's personal
11 assistant, prior to any payment disbursement by the state for
12 personal assistance services under this chapter, and shall be
13 updated annually, at a minimum, and when changes occur. The
14 contract shall meet all of the following requirements:

15 a. Be developed with the consumer or the consumer's
16 designated or legal representative, and, if appropriate, the
17 family of the consumer, in conjunction with the personal
18 assistant.

19 b. Be approved by the consumer or, if appropriate, the
20 consumer's designated or legal representative, and the
21 personal assistant.

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

24 3. The consumer shall provide a copy of the contract to
25 the department.

26 4. The personal assistance services contract shall specify
27 all of the following:

28 a. The scope of personal assistance services to be
29 provided.

30 b. The duties of the employer of record.

31 c. The duties of the personal assistant.

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

33 e. The method and rate of payment for services.

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

35 g. The projected schedule of services to be provided.

1 h. The means of ensuring substitute and emergency personal
2 assistance services and the method of accessing these
3 services.

4 i. Emergency, illness, and absence procedures relative to
5 the personal assistant.

6 j. The initial assessment and frequency of reassessment of
7 the needs of the consumer.

8 k. The means to adjust services and the services schedule
9 when changes are needed.

10 l. The personal assistant's use of personal items, if any.

11 m. A mechanism to coordinate personal assistance services
12 with other health care services received by the consumer.

13 n. The degree and frequency of supervision of the personal
14 assistant necessary for the effective delivery of personal
15 assistance services and identification of the provider of
16 supervision.

17 o. Outcome measures used to assess the quality of
18 services.

19 p. Complaint procedures.

20 q. The reasons and method for termination of services.

21 Sec. 8. NEW SECTION. 225D.8 QUALITY ASSURANCE AND
22 SAFEGUARDS.

23 1. The department and the personal assistance and family
24 support services council shall develop a quality mechanism to
25 be used by the consumer and an ombudsperson to assess service
26 quality.

27 2. The service quality mechanism shall be based on
28 consumer satisfaction of services provided and the life
29 outcomes of a consumer.

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

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

1 b. Provide for meaningful input by the consumer or the
2 consumer's representative.

3 c. Adhere to contractual requirements to meet the
4 individual needs of the consumer.

5 d. Safeguard the consumer from abuse, neglect, and
6 exploitation while respecting personal choice.

7 e. Ensure all of the following:

8 (1) Training to the consumer or the consumer's
9 representative relating to the hiring, supervision, and
10 training of personal assistants, and the responsibilities of
11 an employer of record.

12 (2) Consumer access to background information concerning
13 prospective and current personal assistants from the state's
14 abuse registry, driver's license information, criminal record,
15 and workers' compensation claims history.

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

18 All personal assistance services delivery options shall
19 provide a mechanism that allows for the delivery of health-
20 related personal assistance services to consumers in the
21 consumer's independent living environment and in the workplace
22 through any of the following:

23 1. Consumer-directed training of unlicensed persons to
24 provide health-related tasks.

25 2. Physician delegation of tasks to a qualified unlicensed
26 person.

27 3. Nurse delegation of tasks to a qualified unlicensed
28 person.

29 Sec. 10. NEW SECTION. 225D.10 COPAYMENTS AND COST-
30 SHARING FOR SERVICES.

31 The department shall develop a mechanism for copayment and
32 cost-sharing for personal assistance services for consumers
33 whose adjusted gross income is above one hundred fifty percent
34 of the federal poverty level as defined by the most recently
35 revised poverty income guidelines published by the federal

1 office of management and budget and consumers whose income is
2 in excess of income eligibility requirements under section
3 249A.3, subsection 2, paragraph "a". Priority in serving
4 eligible consumers shall be given to consumers whose income is
5 at or below two hundred and fifty percent of the federal
6 poverty level as defined by the most recently revised poverty
7 income guidelines published by the federal office of
8 management and budget.

9 Sec. 11. NEW SECTION. 225D.11 EXISTING PROGRAMS --
10 CONSOLIDATION -- FUNDING -- RIGHTS OF CONSUMERS.

11 1. On or before January 1, 2001, the department shall, in
12 conjunction with the health care financing administration of
13 the United States department of health and human services,
14 review and complete a plan for consolidation and coordination
15 of funding mechanisms and expenditures relative to health care
16 facility services, intermediate care facilities for persons
17 with mental retardation services, all covered home and
18 community-based services provided under section 1915(c) of the
19 federal Social Security Act, services provided under the
20 personal care option of the medical assistance program, and
21 frail elderly program services. The plan shall provide for
22 consolidation and coordination of funding mechanisms and
23 expenditures in order to provide funding for the personal
24 assistance services described in this chapter.

25 2. On or before March 1, 2001, the department shall
26 redirect funding for all existing personal assistance services
27 pilot and waiver programs for purposes of matching medical
28 assistance funding for persons served under those programs.

29 3. The department shall develop the consolidated plan in a
30 manner that capitalizes on and leverages federal funding to
31 the maximum extent possible under the federal Ticket to Work
32 and Work Incentives Improvement Act of 1999, Pub. L. No. 106-
33 170 and the federal Workforce Investment Act of 1998, Pub. L.
34 No. 105-220.

35 4. Funds allocated to the personal assistance services

1 pilot program established pursuant to section 225C.46, through
2 the department, shall be redirected to be used as state
3 matching funds for federal funds under the medical assistance
4 program.

5 5. To the extent possible, funding available from the
6 trust fund established in chapter 249H for developing long-
7 term care alternatives, if enacted by the Seventy-eighth
8 General Assembly, 2000 Session, shall be used to assist with
9 the consolidation of the funding for personal assistance
10 services.

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

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

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

34 9. A resident of an institution who wishes to remain in an
35 institutional setting shall not be required to receive

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 above a
4 certain 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. The plan is to be
8 complete by January 1, 2001.

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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**HOUSE FILE 2380
FISCAL NOTE**

A fiscal note for House File 2380 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.

House File 2380 adds Chapter 225D, Code of Iowa, establishing a comprehensive system of personal assistance services for elders and persons with disabilities. The Bill directs the Department of Human Services to develop and implement noninstitutional personal assistance services no later than March 1, 2001. The Bill also expands the Personal Assistance and Family Support Services Council from 11 members to 13 members.

BACKGROUND

A personal assistance pilot project has been operating in Clinton, Scott, and Muscatine counties since July 1, 1995. Approximately 65 disabled individuals are served through the pilot and the estimated annual cost per person is \$7,080.

ASSUMPTIONS

1. Approximately 3% of the Iowa population, or 84,000 individuals, are disabled and in need of assistance.
2. Approximately 51% of Iowa's disabled population, or 43,000 individuals, are eligible for Medical Assistance. For Medical Assistance eligibles, the federal government pays 62.77% of the cost of personal assistance services.
3. Approximately 20% of the Medical Assistance eligible disabled population, or 8,600 individuals, will participate in the comprehensive personal assistance program beginning July 1, 2002.
4. Of the 8,600 participants, 6,100 will be adults. The estimated annual cost per adult will be \$7,080.
5. Of the 8,600 participants, 2,500 will be children. Children will receive half of their personal assistance services through special education supports and the remainder through HF 2380's comprehensive system of personal assistance services. The estimated annual cost per child will be \$3,540.
6. The total annual State cost of providing comprehensive personal assistance services to the participating Medical Assistance disabled population will be \$19.4 million beginning in FY 2003.
7. Salaries and stipends for additional Council members and support staff will cost approximately \$24,000 more than current costs in FY 2001 and

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\$104,000 more than current costs in FY 2002 and each year thereafter.

8. Computer system changes costing approximately \$87,000 will be required in FY 2002.

FISCAL IMPACT

The fiscal impact of House File 2380 will be \$24,000 in FY 2001, \$191,000 in FY 2002, and \$19.5 million in FY 2003 and each year thereafter.

SOURCE

Department of Human Services

(LSB 5733hv, DAA)

FILED FEBRUARY 29, 2000

BY DENNIS PROUTY, FISCAL DIRECTOR