

SENATE FILE 2163
BY SCHUERER

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

A BILL FOR

1 An Act relating to asset disregard under the medical assistance
2 program for the purchase of a qualified long-term care
3 insurance policy, providing for a repeal, and providing a
4 contingent effective date.

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

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SENATE FILE 2163

S-5051

1 Amend Senate File 2163 as follows:
2 1. Page 5, line 11, by striking the word "may"
3 and inserting the following: "shall".

By NEAL SCHUERER

S-5051 FILED MARCH 9, 2004

SF 2163
COMMERCE

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1 Section 1. NEW SECTION. 249J.1 DEFINITIONS.

2 As used in this chapter, unless the context otherwise
3 requires:

4 1. "Health maintenance organization" means health
5 maintenance organization as defined in section 514B.1.

6 2. "Long-term care facility" includes, but is not limited
7 to, a facility licensed under chapter 135C or an assisted
8 living program certified under chapter 231C.

9 3. "Qualified long-term care insurance policy" means a
10 qualified long-term care insurance contract as defined in
11 section 7702B(b) of the Internal Revenue Code that is issued
12 by an insurer or other person who complies with section
13 249J.5.

14 4. "Qualified long-term care services" means qualified
15 long-term care services as defined in section 7702B(c) of the
16 Internal Revenue Code.

17 Sec. 2. NEW SECTION. 249J.2 ESTABLISHMENT AND
18 ADMINISTRATION OF THE PROGRAM.

19 1. The Iowa long-term care asset disregard incentive
20 program is established to do the following:

21 a. Provide incentives for individuals to insure against
22 the costs of providing for their long-term care needs.

23 b. Provide a mechanism for individuals to qualify for
24 coverage of the costs of their long-term care needs under the
25 medical assistance program without first being required to
26 substantially exhaust all their resources.

27 c. Assist in developing methods for increasing access to
28 and the affordability of long-term care insurance.

29 d. Provide counseling to individuals in understanding
30 their long-term care insurance options.

31 e. Alleviate the financial burden on the state's medical
32 assistance program by encouraging the pursuit of private
33 initiatives.

34 2. The insurance division of the department of commerce
35 shall administer the program in cooperation with the division

1 responsible for medical services within the department of
2 human services.

3 Sec. 3. NEW SECTION. 249J.3 INFORMATION ABOUT THE
4 PROGRAM -- AVAILABILITY OF ASSISTANCE.

5 1. The insurance division shall develop and coordinate a
6 plan to provide counseling as described in section 249J.2.

7 2. The insurance division shall make available to any
8 individual interested in participating in the Iowa long-term
9 care asset disregard incentive program information concerning
10 all of the following:

11 a. The Iowa long-term care asset disregard incentive
12 program.

13 b. Qualified long-term care insurance policies.

14 c. Medicare supplement insurance policies.

15 d. Parts A and B coverage under the Medicare program
16 pursuant to 42 U.S.C. § 1395 et seq.

17 e. Health maintenance organizations that contract with the
18 Medicare program.

19 f. The medical assistance program.

20 3. If an individual elects to pursue any of the options
21 about which information is provided under subsection 2, the
22 insurance division shall assist the individual.

23 Sec. 4. NEW SECTION. 249J.4 ELIGIBILITY.

24 An individual who meets either of the following criteria is
25 eligible for assistance under the medical assistance program
26 using the asset disregard provisions pursuant to section
27 249J.6:

28 1. Is the beneficiary of a qualified long-term care
29 insurance policy approved by the insurance division.

30 2. Is enrolled in a health maintenance organization that
31 both provides qualified long-term care services and provides a
32 qualified long-term care insurance policy.

33 Sec. 5. NEW SECTION. 249J.5 INSURER REQUIREMENTS.

34 1. An insurer or other person who wishes to issue a
35 qualified long-term care insurance policy meeting the

1 requirements of this chapter shall, at a minimum, offer to
2 each policyholder or prospective policyholder a policy that
3 provides both of the following:

4 a. Facility coverage, including but not limited to long-
5 term care facility coverage.

6 b. Nonfacility coverage, including but not limited to home
7 and community care coverage.

8 2. An insurer or other person who complies with subsection
9 1 may also elect to offer a qualified long-term care insurance
10 policy that provides only facility coverage.

11 Sec. 6. NEW SECTION. 249J.6 ASSET DISREGARD ADJUSTMENT.

12 1. As used in this section, "asset disregard" means any of
13 the following:

14 a. A one dollar increase in the amount of assets an
15 individual who purchases a qualified long-term care insurance
16 policy and meets the requirements of section 249J.4 may retain
17 under section 249A.34 for each one dollar of benefit paid out
18 under the individual's qualified long-term care insurance
19 policy for qualified long-term care services if the policy
20 provides benefits at the time of initial purchase of at least
21 one hundred thousand dollars if purchased on or before January
22 1, 2004, and includes a provision under which the total
23 benefit increases by at least five percent per year,
24 compounded annually beginning January 1, 2005, for individuals
25 up to seventy-two years of age.

26 b. The total assets an individual owns and may retain
27 under section 249A.34 and still qualify for benefits under
28 chapter 249A at the time the individual applies for benefits
29 if the individual meets all of the following criteria:

30 (1) Is the beneficiary of a qualified long-term care
31 insurance policy that provides benefits at the time of initial
32 purchase of at least one hundred forty thousand dollars if
33 purchased on or before January 1, 1998, and includes a
34 provision under which the total benefit increases by at least
35 five percent per year, compounded annually, beginning January

1 1, 1999, for individuals up to seventy-two years of age.

2 (2) Meets the requirements of section 249J.4.

3 (3) Has exhausted the benefits of the qualified long-term
4 care insurance policy.

5 2. When the division responsible for medical services
6 within the department of human services determines whether an
7 individual is eligible for medical services under chapter
8 249A, the division shall make an asset disregard adjustment
9 for any individual who meets the requirements of section
10 249J.4. The asset disregard shall be available after benefits
11 of the qualified long-term care insurance policy have been
12 applied to the cost of qualified long-term care services as
13 required under this chapter.

14 Sec. 7. NEW SECTION. 249J.7 APPLICATION OF ASSET
15 DISREGARD TO DETERMINATION OF INDIVIDUAL'S ASSETS.

16 A public program administered by the state that provides
17 long-term care services and bases eligibility upon the amount
18 of the individual's assets shall apply the asset disregard
19 under section 249J.6 in determining the amount of the
20 individual's assets.

21 Sec. 8. NEW SECTION. 249J.8 DISCONTINUATION OF PROGRAM.

22 1. If the Iowa long-term care asset disregard incentive
23 program is discontinued, an individual who is covered by a
24 qualified long-term care insurance policy prior to the date
25 the program is discontinued is eligible to continue to receive
26 an asset disregard as defined under section 249J.6.

27 2. An individual who is covered by a long-term care
28 insurance policy under the long-term care asset preservation
29 program established pursuant to chapter 249G, Code 2003, on or
30 before June 30, 2004, is eligible to continue to receive the
31 asset adjustment as defined under that chapter.

32 3. The insurance division shall adopt rules to provide an
33 asset disregard to individuals who are covered by a long-term
34 care insurance policy prior to July 1, 2004, consistent with
35 the Iowa long-term care program asset disregard.

1 Sec. 9. NEW SECTION. 249J.9 RECIPROCAL AGREEMENTS TO
2 EXTEND ASSET DISREGARD.

3 The division responsible for medical services within the
4 department of human services may enter into reciprocal
5 agreements with other states to extend the asset disregard
6 under section 249J.6 to Iowa residents who had purchased or
7 were covered by qualified long-term care insurance policies in
8 other states.

9 Sec. 10. NEW SECTION. 249J.10 RULES.

10 The department of human services and the insurance division
11 may adopt rules pursuant to chapter 17A as necessary to
12 administer this chapter. The insurance division shall consult
13 with representatives of the insurance industry in adopting
14 such rules. This delegation of rulemaking authority shall be
15 construed narrowly.

16 Sec. 11. NEW SECTION. 249A.34 PURCHASE OF QUALIFIED
17 LONG-TERM CARE INSURANCE POLICY -- COMPUTATION UNDER MEDICAL
18 ASSISTANCE PROGRAM.

19 A computation for the purposes of determining eligibility
20 under this chapter concerning an individual who has purchased
21 a qualified long-term care insurance policy under chapter 249J
22 shall include consideration of the asset disregard provided in
23 section 249J.6.

24 Sec. 12. Chapter 249G, Code 2003, is repealed.

25 Sec. 13. MEDICAID STATE PLAN.

26 1. The department shall amend the medical assistance state
27 plan to provide that all amounts paid for qualified long-term
28 care services under a qualified long-term care insurance
29 policy shall be considered in determining the amount of the
30 asset disregard.

31 2. The department shall amend the medical assistance state
32 plan to extend nursing home coverage using the special
33 institutional income rule to the medically needy directly
34 without the requirement of establishing a qualifying income
35 trust.

1 Sec. 14. CONTINGENT EFFECTIVE DATE -- IOWA LONG-TERM CARE
2 ASSET DISREGARD INCENTIVE PROGRAM. The Iowa long-term care
3 asset disregard incentive program established in this Act
4 shall take effect only if funding is specifically appropriated
5 to the insurance division for that purpose. The insurance
6 division shall notify the Code editor if such an appropriation
7 is made.

8 EXPLANATION

9 This bill establishes an Iowa long-term care asset
10 disregard incentive program to provide incentives for
11 individuals to insure against the costs of their long-term
12 care needs, provide a mechanism for individuals to qualify for
13 coverage of the costs of their long-term care needs under the
14 medical assistance program without first being required to
15 substantially exhaust all their resources, to increase access
16 to and the affordability of long-term care insurance, to
17 provide counseling to individuals in understanding their long-
18 term care insurance options, and to alleviate the financial
19 burden on the state's medical assistance program by
20 encouraging the pursuit of private initiatives. The bill
21 directs the division responsible for medical services within
22 the department of human services and the insurance division of
23 the department of commerce to administer the program.

24 The bill directs the insurance division to provide certain
25 information to individuals interested in participating in the
26 Iowa long-term care asset disregard incentive program, and
27 provides that an individual is eligible to participate in the
28 program if the individual is either the beneficiary of a
29 qualified long-term care insurance policy approved by the
30 insurance division or is enrolled in a health maintenance
31 organization that both provides qualified long-term care
32 services and provides a qualified long-term care insurance
33 policy.

34 The bill encourages insurers who issue qualified long-term
35 care policies to offer, at a minimum, a policy that provides

1 both facility coverage and nonfacility coverage, including but
2 not limited to home and community care coverage.

3 Under the bill, an individual who purchases or is covered
4 by a qualified long-term care insurance policy would be
5 allowed an asset disregard under the medical assistance
6 program. The asset disregard is either a \$1 increase in the
7 amount of assets the individual may retain under the medical
8 assistance program for each \$1 of benefit paid out under the
9 individual's qualified long-term care insurance policy for
10 qualified long-term care services if the benefit is at least
11 \$100,000 if purchased on or before January 1, 2004, and the
12 total benefit increases by at least 5 percent compounded
13 annually beginning January 1, 2005, for individuals up to
14 seventy-two years of age, or a disregard of the total assets
15 the individual owns and may retain and still be eligible under
16 the medical assistance program if the individual is the
17 beneficiary of a qualified long-term care insurance policy
18 with a benefit of at least \$140,000 if purchased on or before
19 January 1, 1998, with a total benefit that increases by at
20 least 5 percent compounded annually beginning January 1, 1999,
21 for individuals up to 72 years of age, is otherwise eligible
22 and has exhausted the benefits of the policy.

23 The bill provides that if the Iowa long-term care asset
24 disregard incentive program is discontinued, an individual who
25 purchased or is covered under a qualified long-term care
26 insurance policy prior to the date the program is discontinued
27 is eligible to continue to receive an asset disregard under
28 the bill. The bill allows an individual participating in the
29 asset preservation program existing on June 30, 2004, to
30 continue to receive that asset adjustment and directs the
31 department to adopt rules to allow an individual who purchased
32 long-term care insurance prior to July 1, 2004, to receive an
33 asset disregard incentive prior to July 1, 2004. The bill
34 allows for reciprocal agreements to extend the asset disregard
35 program and the division of insurance to Iowa residents who

1 have purchased or are covered under qualified long-term care
2 insurance policies in other states.

3 The bill authorizes the department of human services and
4 the insurance division to adopt rules to administer this new
5 Code chapter but this authority is to be construed narrowly.
6 The insurance division is directed to consult with
7 representatives of the insurance industry in adopting such
8 rules.

9 The bill directs the department of human services to amend
10 the medical assistance state plan to allow for disregard of
11 all amounts paid out under a qualified long-term care
12 insurance policy and to allow for extension of nursing home
13 coverage using the special institutional income rule to the
14 medically needy directly without requiring the establishment
15 of a qualifying income trust.

16 The bill repeals Code chapter 249G, the current long-term
17 care asset preservation program.

18 The bill provides that the long-term care asset disregard
19 incentive program takes effect only if funds are specifically
20 appropriated to the insurance division for that purpose.

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