

MAR 28 2006
APPROPRIATIONS CALENDAR

HOUSE FILE 2772
BY COMMITTEE ON APPROPRIATIONS

(SUCCESSOR TO HF 2561)
(SUCCESSOR TO HF 2325)

Passed House, Date 4-3-06 Passed Senate, Date 4/18/06
Vote: Ayes 98 Nays 0 Vote: Ayes 48 Nays 0
Approved May 23, 2006

A BILL FOR

1 An Act creating a brain injury services program and providing for
2 allocation of a previously enacted appropriation.

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

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HF 2772

1 Section 1. NEW SECTION. 135.22B BRAIN INJURY SERVICES
2 PROGRAM.

3 1. DEFINITIONS. For the purposes of this section:

4 a. "Brain injury services waiver" means the state's
5 medical assistance home and community-based services waiver
6 for persons with brain injury implemented under chapter 249A.

7 b. "Program administrator" means the division of the
8 department designated to administer the brain injury services
9 program in accordance with subsection 2.

10 2. PROGRAM CREATED.

11 a. A brain injury services program is created and shall be
12 administered by a division of the Iowa department of public
13 health in cooperation with counties and the department of
14 human services.

15 b. The division of the department assigned to administer
16 the advisory council on brain injuries under section 135.22A
17 shall be the program administrator. The division duties shall
18 include but are not limited to serving as the fiscal agent and
19 contract administrator for the program and providing program
20 oversight.

21 c. The division shall consult with the advisory council on
22 brain injuries, established pursuant to section 135.22A,
23 regarding the program and shall report to the council
24 concerning the program at least quarterly. The council shall
25 make recommendations to the department concerning the
26 program's operation.

27 3. PURPOSE. The purpose of the brain injury services
28 program is to provide services, service funding, or other
29 support for persons with a brain injury under one of the
30 program components established pursuant to this section.

31 4. GENERAL REQUIREMENTS -- WAIVER ELIGIBLE COMPONENT.

32 a. The component of the brain injury services program for
33 persons eligible for the brain injury services waiver is
34 subject to the requirements provided in this subsection.

35 b. If a person is eligible for the brain injury services

1 waiver and is on the waiting list for the waiver but the
2 appropriation for the medical assistance program does not have
3 sufficient funding designated to pay the nonfederal share of
4 the costs to remove the person from the waiting list, the
5 brain injury services program may provide the funding for the
6 nonfederal share of the costs in order for the person to be
7 removed from the waiting list and receive services under the
8 waiver.

9 c. A person who receives support under the waiver eligible
10 component is not eligible to receive support under the cost-
11 share component of the program.

12 d. Provision of funding under the waiver eligible
13 component is not an entitlement. Subject to the department of
14 human services requirements for the brain injury services
15 waiver waiting list, the program administrator shall make the
16 final determination whether funding will be authorized under
17 this component.

18 5. GENERAL REQUIREMENTS -- COST-SHARE COMPONENT. The
19 cost-share component of the brain injury services program
20 shall be directed to persons who have been determined to be
21 ineligible for the brain injury services waiver or persons who
22 are eligible for the waiver but funding was not authorized or
23 available to provide waiver eligibility for the persons under
24 the waiver eligible component. The cost-share component is
25 subject to general requirements which shall include but are
26 not limited to all of the following:

27 a. Services offered are consistent with the services
28 offered through the brain injury services waiver.

29 b. Each service consumer has a service plan developed
30 prior to service implementation and the service plan is
31 reviewed and updated at least quarterly.

32 c. All other funding sources for which the service
33 consumer is eligible are utilized to the greatest extent
34 possible. The funding sources potentially available include
35 but are not limited to community resources and public and

1 private benefit programs.

2 d. The maximum monthly cost of the services provided shall
3 be based on the maximum monthly amount authorized for the
4 brain injury services waiver.

5 e. Assistance under the cost-share component shall be made
6 available to a designated number of service consumers who are
7 eligible, as determined from the funding available for the
8 cost-share component, on a first-come, first-served basis.

9 f. Nothing in this section shall be construed or is
10 intended as, or shall imply, a grant of entitlement to
11 services to persons who are eligible for participation in the
12 cost-share component based upon the eligibility provisions
13 adopted consistent with the requirements of this section. Any
14 obligation to provide services pursuant to this section is
15 limited to the extent of the funds appropriated or provided
16 for the cost-share component.

17 6. COST-SHARE COMPONENT ELIGIBILITY. An individual must
18 meet all of the following requirements in order to be eligible
19 for the cost-share component of the brain injury services
20 program:

21 a. The individual is age one month through sixty-four
22 years.

23 b. The individual has a diagnosed brain injury as defined
24 in section 135.22.

25 c. The individual is a resident of this state and either a
26 United States citizen or a qualified alien as defined in 8
27 U.S.C. § 1641.

28 d. The cost-share component's financial eligibility
29 requirements shall be based on the requirements used for the
30 hawk-i program under chapter 514I. The individual must meet
31 the cost-share component's financial eligibility requirements
32 and be willing to pay a cost-share for the cost-share
33 component.

34 e. The individual does not receive services or funding
35 under any type of medical assistance home and community-based

1 services waiver.

2 7. COST-SHARE REQUIREMENTS.

3 a. An individual's cost-share responsibility for services
4 under the cost-share component shall be determined on a
5 sliding scale based upon the individual's family income. An
6 individual's cost-share shall be assessed as a copayment,
7 which shall not exceed thirty percent of the cost payable for
8 the service.

9 b. The service provider shall bill the department for the
10 portion of the cost payable for the service that is not
11 covered by the individual's copayment responsibility.

12 8. APPLICATION PROCESS.

13 a. The application materials for services under both the
14 waiver eligible and cost-share components of the brain injury
15 services program shall use the application form and other
16 materials of the brain injury services waiver. In order to
17 apply for the brain injury services program, the applicant
18 must authorize the department of human services to provide the
19 applicant's waiver application materials to the brain injury
20 services program. The application materials provided shall
21 include but are not limited to the waiver application, and any
22 denial letter, financial assessment, and functional assessment
23 regarding the person.

24 b. If a functional assessment for the waiver has not been
25 completed due to a person's financial ineligibility for the
26 waiver, the brain injury services program may provide for a
27 functional assessment to determine the person's needs by
28 reimbursing the department of human services for the
29 assessment.

30 c. The program administrator shall file copies of the
31 individual's application and needs assessment with the program
32 resource facilitator assigned to the individual's geographic
33 area.

34 d. The department's program administrator shall make a
35 final determination as to whether program funding will be

1 authorized under the cost-share component.

2 9. SERVICE PROVIDERS AND REIMBURSEMENT. All of the
3 following requirements apply to service providers and
4 reimbursement rates payable for services under the cost-share
5 component:

6 a. A service provider must either be certified to provide
7 services under the brain injury services waiver or have a
8 contract with a county to provide services and will become
9 certified to provide services under such waiver within a
10 reasonable period of time specified in rule.

11 b. The reimbursement rate payable for the cost of a
12 service provided under the cost-share component is the rate
13 payable under the medical assistance program. However, if the
14 service provided does not have a medical assistance program
15 reimbursement rate, the rate shall be the amount payable under
16 the county contract.

17 10. RESOURCE FACILITATION. The program shall utilize
18 resource facilitators to facilitate program services. The
19 resource facilitator shall be available to provide ongoing
20 support for individuals with brain injury in coping with the
21 issues of living with a brain injury and in assisting such
22 individuals in transitioning back to employment and living in
23 the community. The resource facilitator is intended to
24 provide a linkage to existing services and increase the
25 capacity of the state's providers of services to persons with
26 brain injury by doing all of the following:

27 a. Providing brain injury-specific information, support,
28 and resources.

29 b. Enhancing the usage of support commonly available to an
30 individual with brain injury from the community, family, and
31 personal contacts and linking such individuals to appropriate
32 services and community resources.

33 c. Training service providers to provide appropriate brain
34 injury services.

35 d. Accessing, securing, and maximizing the private and

1 public funding available to support an individual with a brain
2 injury.

3 Sec. 2. 2005 Iowa Acts, chapter 179, section 1, subsection
4 2, paragraph d, is amended to read as follows:

5 d. For distribution to ~~counties-as-cost-share-for-county~~
6 ~~coverage-of-services-to-adult-persons-with the Iowa department~~
7 ~~of public health for the brain injury in-accordance-with-the~~
8 ~~law-enacted-as-a-result-of-the-provisions-of-2005-Iowa-Acts,~~
9 ~~House-File-8767-or-other-law-providing-for-such-coverage-to~~
10 commence service program in the fiscal year beginning July 1,
11 2006, as provided in accordance with section 135.22B, if
12 enacted by the Eighty-first General Assembly, 2006 Session:

13 \$ 2,426,893

14 The amount allocated in this paragraph "d" shall be
15 allocated by the Iowa department of public health as follows:

16 (1) For state cost-share of services provided under
17 section 135.22B:
18 \$ 2,092,665

19 (2) For contract resource facilitator services:
20 \$ 173,125

21 (3) For a sole source contract with a statewide
22 association representing community providers of mental health,
23 mental retardation, and brain injury services to provide, in
24 collaboration with a statewide organization representing
25 individuals with a brain injury and their families, brain
26 injury training services and recruiting of service providers
27 to increase the capacity within this state to address the
28 needs of individuals with brain injuries and such individuals'
29 families:
30 \$ 40,000

31 (4) For reimbursement for needs assessments performed
32 under section 135.22B:
33 \$ 26,750

34 (5) For match of federal funding, administrative and
35 personnel costs including salaries, support, maintenance, and

1 miscellaneous purposes:

2 \$ 94,353

3 Notwithstanding section 8.33, the appropriated moneys
4 allocated in this paragraph "d" that remain unencumbered or
5 unobligated at the close of the fiscal year shall not revert
6 but shall remain available for expenditure for the purposes
7 designated until the close of the succeeding fiscal year.

8 Sec. 3. EMERGENCY RULES. The Iowa department of public
9 health may adopt administrative rules under section 17A.4,
10 subsection 2, and section 17A.5, subsection 2, paragraph "b",
11 to implement the provisions of this Act, and the rules shall
12 become effective immediately upon filing or on a later
13 effective date specified in the rules, unless the effective
14 date is delayed by the administrative rules review committee.
15 Any rules adopted in accordance with this section shall not
16 take effect before the rules are reviewed by the
17 administrative rules review committee. The delay authority
18 provided to the administrative rules review committee under
19 section 17A.4, subsection 5, and section 17A.8, subsection 9,
20 shall be applicable to a delay imposed under this section,
21 notwithstanding a provision in those sections making them
22 inapplicable to section 17A.5, subsection 2, paragraph "b".
23 Any rules adopted in accordance with the provisions of this
24 section shall also be published as notice of intended action
25 as provided in section 17A.4.

26 EXPLANATION

27 This bill creates a new brain injury services program and
28 provides for funding of the program through allocation of a
29 previously enacted appropriation.

30 The new program is created in new Code section 135.22B to
31 be administered by the division of the Iowa department of
32 public health assigned to administer the advisory council on
33 brain injuries.

34 The bill provides definitions and states the program's
35 purpose. The bill addresses general requirements, including a

1 provision that the program is not an entitlement but is
2 limited to the extent of the funding provided.

3 The program has three primary components: a waiver eligible
4 component, a cost-share component, and a resource facilitation
5 component.

6 The waiver eligible component is for persons with a brain
7 injury that are eligible for the medical assistance (Medicaid)
8 program home and community-based services waiver for persons
9 with brain injury but are on a waiting list because funding is
10 not available to pay the nonfederal share of the costs to
11 remove the person from the waiting list. Under this
12 component, the brain injury services program may provide the
13 funding for the nonfederal share of the costs so that the
14 person may be removed from the waiting list. If a person
15 receives assistance under this component, the person is not
16 eligible for assistance under the cost-share component.

17 The cost-share component is directed to persons with a
18 brain injury who have either been determined to be ineligible
19 for the brain injury services waiver or who are eligible for
20 the waiver but are on a waiting list and funding was not
21 provided under the waiver eligible component. Eligibility for
22 this component is limited to individuals with a diagnosed
23 brain injury who are willing to pay cost-share under the
24 program, and are not receiving services under any Medicaid
25 home and community-based services waiver. The component's
26 financial eligibility requirements are required to be based on
27 those applicable under the hawk-i program for providing health
28 coverage for low-income children.

29 Various cost-share requirements are applicable to the cost-
30 share component, including a sliding scale for individual
31 cost-share and state cost-share for the portion not covered by
32 the individual cost-share.

33 The program's application provisions utilize the
34 application materials of the Medicaid program's home and
35 community-based brain injury services waiver. An applicant

1 for the brain injury services program must authorize the
2 department of human services to provide the applicant's waiver
3 application materials to the program. If there was not a
4 functional assessment performed under the waiver of the
5 applicant's needs because of the applicant's financial
6 eligibility, the brain injury services program may provide for
7 the assessment by reimbursing the department of human services
8 for the assessment. The program administrator has final
9 authority in determining whether program funding will be
10 authorized under the cost-share component.

11 Service provider and reimbursement provisions include
12 requirements that service providers must be certified to
13 provide services under the brain injury services waiver or
14 have a county contract to provide services and become
15 certified to provide services under the waiver. Reimbursement
16 rates payable under the program are the same as the Medicaid
17 rates. If there is not a Medicaid rate, the county contract
18 rate applies.

19 The program includes a resource facilitator component to
20 assist individuals with the program and to enhance the service
21 system available to individuals in the state with brain
22 injury. The bill addresses the duties of resource
23 facilitators.

24 The provisions of an appropriation made for MH/MR/DD
25 allowed growth for fiscal year 2006-2007 in a contingent
26 allocation made for brain injury services are amended. The
27 language is revised to refer to the program created in the
28 bill and to allocate the appropriation to the Iowa department
29 of public health for various purposes associated with the
30 brain injury services program created in the bill. Moneys in
31 the allocation that remain unencumbered or unobligated at the
32 close of the fiscal year do not revert but remain available
33 for expenditure for the brain injury program in the succeeding
34 fiscal year.

35 The Iowa department of public health is authorized to adopt

1 rules to implement the brain injury services program utilizing
2 emergency procedures that forego various public comment
3 periods, but the rules remain subject to review by the
4 administrative rules review committee before being adopted.

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HOUSE FILE 2772

H-8450

1 Amend House File 2772 as follows:
2 1. Page 3, by striking lines 28 through 33 and
3 inserting the following:
4 "d. The cost-share component's financial
5 eligibility requirements shall be established in
6 administrative rule. In establishing the
7 requirements, the department shall consider the
8 eligibility and cost-share requirements used for the
9 hawk-i program under chapter 514I. The individual
10 must meet the cost-share component's financial
11 eligibility requirements and be willing to pay a cost-
12 share for the cost-share component."

By CARROLL of Poweshiek
HEDDENS of Story

H-8450 FILED APRIL 3, 2006
ADOPTED

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HOUSE FILE 2772
BY COMMITTEE ON APPROPRIATIONS

(SUCCESSOR TO HF 2561)
(SUCCESSOR TO HF 2325)

(As Amended and Passed by the House April 3, 2006)

Passed House, Date _____ Passed Senate, Date 4-18-06
Vote: Ayes _____ Nays _____ Vote: Ayes 48 Nays 0
Approved _____

A BILL FOR

1 An Act creating a brain injury services program and providing for
2 allocation of a previously enacted appropriation.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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House Amendments _____

1 Section 1. NEW SECTION. 135.22B BRAIN INJURY SERVICES
2 PROGRAM.

3 1. DEFINITIONS. For the purposes of this section:

4 a. "Brain injury services waiver" means the state's
5 medical assistance home and community-based services waiver
6 for persons with brain injury implemented under chapter 249A.

7 b. "Program administrator" means the division of the
8 department designated to administer the brain injury services
9 program in accordance with subsection 2.

10 2. PROGRAM CREATED.

11 a. A brain injury services program is created and shall be
12 administered by a division of the Iowa department of public
13 health in cooperation with counties and the department of
14 human services.

15 b. The division of the department assigned to administer
16 the advisory council on brain injuries under section 135.22A
17 shall be the program administrator. The division duties shall
18 include but are not limited to serving as the fiscal agent and
19 contract administrator for the program and providing program
20 oversight.

21 c. The division shall consult with the advisory council on
22 brain injuries, established pursuant to section 135.22A,
23 regarding the program and shall report to the council
24 concerning the program at least quarterly. The council shall
25 make recommendations to the department concerning the
26 program's operation.

27 3. PURPOSE. The purpose of the brain injury services
28 program is to provide services, service funding, or other
29 support for persons with a brain injury under one of the
30 program components established pursuant to this section.

31 4. GENERAL REQUIREMENTS -- WAIVER ELIGIBLE COMPONENT.

32 a. The component of the brain injury services program for
33 persons eligible for the brain injury services waiver is
34 subject to the requirements provided in this subsection.

35 b. If a person is eligible for the brain injury services

1 waiver and is on the waiting list for the waiver but the
2 appropriation for the medical assistance program does not have
3 sufficient funding designated to pay the nonfederal share of
4 the costs to remove the person from the waiting list, the
5 brain injury services program may provide the funding for the
6 nonfederal share of the costs in order for the person to be
7 removed from the waiting list and receive services under the
8 waiver.

9 c. A person who receives support under the waiver eligible
10 component is not eligible to receive support under the cost-
11 share component of the program.

12 d. Provision of funding under the waiver eligible
13 component is not an entitlement. Subject to the department of
14 human services requirements for the brain injury services
15 waiver waiting list, the program administrator shall make the
16 final determination whether funding will be authorized under
17 this component.

18 5. GENERAL REQUIREMENTS -- COST-SHARE COMPONENT. The
19 cost-share component of the brain injury services program
20 shall be directed to persons who have been determined to be
21 ineligible for the brain injury services waiver or persons who
22 are eligible for the waiver but funding was not authorized or
23 available to provide waiver eligibility for the persons under
24 the waiver eligible component. The cost-share component is
25 subject to general requirements which shall include but are
26 not limited to all of the following:

27 a. Services offered are consistent with the services
28 offered through the brain injury services waiver.

29 b. Each service consumer has a service plan developed
30 prior to service implementation and the service plan is
31 reviewed and updated at least quarterly.

32 c. All other funding sources for which the service
33 consumer is eligible are utilized to the greatest extent
34 possible. The funding sources potentially available include
35 but are not limited to community resources and public and

1 private benefit programs.

2 d. The maximum monthly cost of the services provided shall
3 be based on the maximum monthly amount authorized for the
4 brain injury services waiver.

5 e. Assistance under the cost-share component shall be made
6 available to a designated number of service consumers who are
7 eligible, as determined from the funding available for the
8 cost-share component, on a first-come, first-served basis.

9 f. Nothing in this section shall be construed or is
10 intended as, or shall imply, a grant of entitlement to
11 services to persons who are eligible for participation in the
12 cost-share component based upon the eligibility provisions
13 adopted consistent with the requirements of this section. Any
14 obligation to provide services pursuant to this section is
15 limited to the extent of the funds appropriated or provided
16 for the cost-share component.

17 6. COST-SHARE COMPONENT ELIGIBILITY. An individual must
18 meet all of the following requirements in order to be eligible
19 for the cost-share component of the brain injury services
20 program:

21 a. The individual is age one month through sixty-four
22 years.

23 b. The individual has a diagnosed brain injury as defined
24 in section 135.22.

25 c. The individual is a resident of this state and either a
26 United States citizen or a qualified alien as defined in 8
27 U.S.C. § 1641.

28 d. The cost-share component's financial eligibility
29 requirements shall be established in administrative rule. In
30 establishing the requirements, the department shall consider
31 the eligibility and cost-share requirements used for the hawk-
32 i program under chapter 514I. The individual must meet the
33 cost-share component's financial eligibility requirements and
34 be willing to pay a cost-share for the cost-share component.

35 e. The individual does not receive services or funding

1 under any type of medical assistance home and community-based
2 services waiver.

3 7. COST-SHARE REQUIREMENTS.

4 a. An individual's cost-share responsibility for services
5 under the cost-share component shall be determined on a
6 sliding scale based upon the individual's family income. An
7 individual's cost-share shall be assessed as a copayment,
8 which shall not exceed thirty percent of the cost payable for
9 the service.

10 b. The service provider shall bill the department for the
11 portion of the cost payable for the service that is not
12 covered by the individual's copayment responsibility.

13 8. APPLICATION PROCESS.

14 a. The application materials for services under both the
15 waiver eligible and cost-share components of the brain injury
16 services program shall use the application form and other
17 materials of the brain injury services waiver. In order to
18 apply for the brain injury services program, the applicant
19 must authorize the department of human services to provide the
20 applicant's waiver application materials to the brain injury
21 services program. The application materials provided shall
22 include but are not limited to the waiver application, and any
23 denial letter, financial assessment, and functional assessment
24 regarding the person.

25 b. If a functional assessment for the waiver has not been
26 completed due to a person's financial ineligibility for the
27 waiver, the brain injury services program may provide for a
28 functional assessment to determine the person's needs by
29 reimbursing the department of human services for the
30 assessment.

31 c. The program administrator shall file copies of the
32 individual's application and needs assessment with the program
33 resource facilitator assigned to the individual's geographic
34 area.

35 d. The department's program administrator shall make a

1 final determination as to whether program funding will be
2 authorized under the cost-share component.

3 9. SERVICE PROVIDERS AND REIMBURSEMENT. All of the
4 following requirements apply to service providers and
5 reimbursement rates payable for services under the cost-share
6 component:

7 a. A service provider must either be certified to provide
8 services under the brain injury services waiver or have a
9 contract with a county to provide services and will become
10 certified to provide services under such waiver within a
11 reasonable period of time specified in rule.

12 b. The reimbursement rate payable for the cost of a
13 service provided under the cost-share component is the rate
14 payable under the medical assistance program. However, if the
15 service provided does not have a medical assistance program
16 reimbursement rate, the rate shall be the amount payable under
17 the county contract.

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19 resource facilitators to facilitate program services. The
20 resource facilitator shall be available to provide ongoing
21 support for individuals with brain injury in coping with the
22 issues of living with a brain injury and in assisting such
23 individuals in transitioning back to employment and living in
24 the community. The resource facilitator is intended to
25 provide a linkage to existing services and increase the
26 capacity of the state's providers of services to persons with
27 brain injury by doing all of the following:

28 a. Providing brain injury-specific information, support,
29 and resources.

30 b. Enhancing the usage of support commonly available to an
31 individual with brain injury from the community, family, and
32 personal contacts and linking such individuals to appropriate
33 services and community resources.

34 c. Training service providers to provide appropriate brain
35 injury services.

1 d. Accessing, securing, and maximizing the private and
2 public funding available to support an individual with a brain
3 injury.

4 Sec. 2. 2005 Iowa Acts, chapter 179, section 1, subsection
5 2, paragraph d, is amended to read as follows:

6 d. For distribution to ~~counties-as-cost-share-for-county~~
7 ~~coverage-of-services-to-adult-persons-with the Iowa department~~
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10 ~~House-File-8767-or-other-law-providing-for-such-coverage-to~~
11 commence service program in the fiscal year beginning July 1,
12 2006, as provided in accordance with section 135.22B, if
13 enacted by the Eighty-first General Assembly, 2006 Session:

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16 allocated by the Iowa department of public health as follows:

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18 section 135.22B:

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20 (2) For contract resource facilitator services:

21 \$ 173,125

22 (3) For a sole source contract with a statewide
23 association representing community providers of mental health,
24 mental retardation, and brain injury services to provide, in
25 collaboration with a statewide organization representing
26 individuals with a brain injury and their families, brain
27 injury training services and recruiting of service providers
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29 needs of individuals with brain injuries and such individuals'
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31 \$ 40,000

32 (4) For reimbursement for needs assessments performed
33 under section 135.22B:

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35 (5) For match of federal funding, administrative and

1 personnel costs including salaries, support, maintenance, and
2 miscellaneous purposes:

3 \$ 94,353

4 Notwithstanding section 8.33, the appropriated moneys
5 allocated in this paragraph "d" that remain unencumbered or
6 unobligated at the close of the fiscal year shall not revert
7 but shall remain available for expenditure for the purposes
8 designated until the close of the succeeding fiscal year.

9 Sec. 3. EMERGENCY RULES. The Iowa department of public
10 health may adopt administrative rules under section 17A.4,
11 subsection 2, and section 17A.5, subsection 2, paragraph "b",
12 to implement the provisions of this Act, and the rules shall
13 become effective immediately upon filing or on a later
14 effective date specified in the rules, unless the effective
15 date is delayed by the administrative rules review committee.
16 Any rules adopted in accordance with this section shall not
17 take effect before the rules are reviewed by the
18 administrative rules review committee. The delay authority
19 provided to the administrative rules review committee under
20 section 17A.4, subsection 5, and section 17A.8, subsection 9,
21 shall be applicable to a delay imposed under this section,
22 notwithstanding a provision in those sections making them
23 inapplicable to section 17A.5, subsection 2, paragraph "b".
24 Any rules adopted in accordance with the provisions of this
25 section shall also be published as notice of intended action
26 as provided in section 17A.4.

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HOUSE FILE 2772

AN ACT

CREATING A BRAIN INJURY SERVICES PROGRAM AND PROVIDING FOR
ALLOCATION OF A PREVIOUSLY ENACTED APPROPRIATION.

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

Section 1. NEW SECTION. 135.22B BRAIN INJURY SERVICES
PROGRAM.

1. DEFINITIONS. For the purposes of this section:

a. "Brain injury services waiver" means the state's
medical assistance home and community-based services waiver
for persons with brain injury implemented under chapter 249A.

b. "Program administrator" means the division of the
department designated to administer the brain injury services
program in accordance with subsection 2.

2. PROGRAM CREATED.

a. A brain injury services program is created and shall be
administered by a division of the Iowa department of public
health in cooperation with counties and the department of
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b. The division of the department assigned to administer
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shall be the program administrator. The division duties shall
include but are not limited to serving as the fiscal agent and
contract administrator for the program and providing program
oversight.

c. The division shall consult with the advisory council on
brain injuries, established pursuant to section 135.22A,

regarding the program and shall report to the council
concerning the program at least quarterly. The council shall
make recommendations to the department concerning the
program's operation.

3. PURPOSE. The purpose of the brain injury services
program is to provide services, service funding, or other
support for persons with a brain injury under one of the
program components established pursuant to this section.

4. GENERAL REQUIREMENTS -- WAIVER ELIGIBLE COMPONENT.

a. The component of the brain injury services program for
persons eligible for the brain injury services waiver is
subject to the requirements provided in this subsection.

b. If a person is eligible for the brain injury services
waiver and is on the waiting list for the waiver but the
appropriation for the medical assistance program does not have
sufficient funding designated to pay the nonfederal share of
the costs to remove the person from the waiting list, the
brain injury services program may provide the funding for the
nonfederal share of the costs in order for the person to be
removed from the waiting list and receive services under the
waiver.

c. A person who receives support under the waiver eligible
component is not eligible to receive support under the cost-
share component of the program.

d. Provision of funding under the waiver eligible
component is not an entitlement. Subject to the department of
human services requirements for the brain injury services
waiver waiting list, the program administrator shall make the
final determination whether funding will be authorized under
this component.

5. GENERAL REQUIREMENTS -- COST-SHARE COMPONENT. The
cost-share component of the brain injury services program
shall be directed to persons who have been determined to be
ineligible for the brain injury services waiver or persons who
are eligible for the waiver but funding was not authorized or

available to provide waiver eligibility for the persons under the waiver eligible component. The cost-share component is subject to general requirements which shall include but are not limited to all of the following:

- a. Services offered are consistent with the services offered through the brain injury services waiver.
- b. Each service consumer has a service plan developed prior to service implementation and the service plan is reviewed and updated at least quarterly.
- c. All other funding sources for which the service consumer is eligible are utilized to the greatest extent possible. The funding sources potentially available include but are not limited to community resources and public and private benefit programs.
- d. The maximum monthly cost of the services provided shall be based on the maximum monthly amount authorized for the brain injury services waiver.
- e. Assistance under the cost-share component shall be made available to a designated number of service consumers who are eligible, as determined from the funding available for the cost-share component, on a first-come, first-served basis.
- f. Nothing in this section shall be construed or is intended as, or shall imply, a grant of entitlement to services to persons who are eligible for participation in the cost-share component based upon the eligibility provisions adopted consistent with the requirements of this section. Any obligation to provide services pursuant to this section is limited to the extent of the funds appropriated or provided for the cost-share component.

6. COST-SHARE COMPONENT ELIGIBILITY. An individual must meet all of the following requirements in order to be eligible for the cost-share component of the brain injury services program:

- a. The individual is age one month through sixty-four years.

- b. The individual has a diagnosed brain injury as defined in section 135.22.
- c. The individual is a resident of this state and either a United States citizen or a qualified alien as defined in 8 U.S.C. § 1641.
- d. The cost-share component's financial eligibility requirements shall be established in administrative rule. In establishing the requirements, the department shall consider the eligibility and cost-share requirements used for the hawk-i program under chapter 514I. The individual must meet the cost-share component's financial eligibility requirements and be willing to pay a cost-share for the cost-share component.
- e. The individual does not receive services or funding under any type of medical assistance home and community-based services waiver.

7. COST-SHARE REQUIREMENTS.

- a. An individual's cost-share responsibility for services under the cost-share component shall be determined on a sliding scale based upon the individual's family income. An individual's cost-share shall be assessed as a copayment, which shall not exceed thirty percent of the cost payable for the service.
- b. The service provider shall bill the department for the portion of the cost payable for the service that is not covered by the individual's copayment responsibility.

8. APPLICATION PROCESS.

- a. The application materials for services under both the waiver eligible and cost-share components of the brain injury services program shall use the application form and other materials of the brain injury services waiver. In order to apply for the brain injury services program, the applicant must authorize the department of human services to provide the applicant's waiver application materials to the brain injury services program. The application materials provided shall include but are not limited to the waiver application, and any

denial letter, financial assessment, and functional assessment regarding the person.

b. If a functional assessment for the waiver has not been completed due to a person's financial ineligibility for the waiver, the brain injury services program may provide for a functional assessment to determine the person's needs by reimbursing the department of human services for the assessment.

c. The program administrator shall file copies of the individual's application and needs assessment with the program resource facilitator assigned to the individual's geographic area.

d. The department's program administrator shall make a final determination as to whether program funding will be authorized under the cost-share component.

9. SERVICE PROVIDERS AND REIMBURSEMENT. All of the following requirements apply to service providers and reimbursement rates payable for services under the cost-share component:

a. A service provider must either be certified to provide services under the brain injury services waiver or have a contract with a county to provide services and will become certified to provide services under such waiver within a reasonable period of time specified in rule.

b. The reimbursement rate payable for the cost of a service provided under the cost-share component is the rate payable under the medical assistance program. However, if the service provided does not have a medical assistance program reimbursement rate, the rate shall be the amount payable under the county contract.

10. RESOURCE FACILITATION. The program shall utilize resource facilitators to facilitate program services. The resource facilitator shall be available to provide ongoing support for individuals with brain injury in coping with the issues of living with a brain injury and in assisting such

individuals in transitioning back to employment and living in the community. The resource facilitator is intended to provide a linkage to existing services and increase the capacity of the state's providers of services to persons with brain injury by doing all of the following:

a. Providing brain injury-specific information, support, and resources.

b. Enhancing the usage of support commonly available to an individual with brain injury from the community, family, and personal contacts and linking such individuals to appropriate services and community resources.

c. Training service providers to provide appropriate brain injury services.

d. Accessing, securing, and maximizing the private and public funding available to support an individual with a brain injury.

Sec. 2. 2005 Iowa Acts, chapter 179, section 1, subsection 2, paragraph d, is amended to read as follows:

d. For distribution to counties-as-cost-share-for-county coverage-of-services-to-adult-persons-with the Iowa department of public health for the brain injury in-accordance-with-the law-enacted-as-a-result-of-the-provisions-of-2005-Iowa-Acts, House-File-8767-or-other-law-providing-for-such-coverage-to commence service program in the fiscal year beginning July 1, 2006, as provided in accordance with section 135.22B, if enacted by the Eighty-first General Assembly, 2006 Session:

..... \$ 2,426,893

The amount allocated in this paragraph "d" shall be allocated by the Iowa department of public health as follows:

(1) For state cost-share of services provided under section 135.22B;

..... \$ 2,092,665

(2) For contract resource facilitator services:

..... \$ 173,125

(3) For a sole source contract with a statewide association representing community providers of mental health, mental retardation, and brain injury services to provide, in collaboration with a statewide organization representing individuals with a brain injury and their families, brain injury training services and recruiting of service providers to increase the capacity within this state to address the needs of individuals with brain injuries and such individuals' families:

..... \$ 40,000

(4) For reimbursement for needs assessments performed under section 135.22B:

..... \$ 26,750

(5) For match of federal funding, administrative and personnel costs including salaries, support, maintenance, and miscellaneous purposes:

..... \$ 94,353

Notwithstanding section 8.33, the appropriated moneys allocated in this paragraph "d" that remain unencumbered or unobligated at the close of the fiscal year shall not revert but shall remain available for expenditure for the purposes designated until the close of the succeeding fiscal year.

Sec. 3. EMERGENCY RULES. The Iowa department of public health may adopt administrative rules under section 17A.4, subsection 2, and section 17A.5, subsection 2, paragraph "b", to implement the provisions of this Act, and the rules shall become effective immediately upon filing or on a later effective date specified in the rules, unless the effective date is delayed by the administrative rules review committee. Any rules adopted in accordance with this section shall not take effect before the rules are reviewed by the administrative rules review committee. The delay authority provided to the administrative rules review committee under section 17A.4, subsection 5, and section 17A.8, subsection 9, shall be applicable to a delay imposed under this section,

notwithstanding a provision in those sections making them inapplicable to section 17A.5, subsection 2, paragraph "b". Any rules adopted in accordance with the provisions of this section shall also be published as notice of intended action as provided in section 17A.4.

CHRISTOPHER C. RANTS
Speaker of the House

JEFFREY M. LAMBERTI
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 2772, Eighty-first General Assembly.

MARGARET THOMSON
Chief Clerk of the House

Approved 5/23, 2006

THOMAS J. VILSACK
Governor