

House Study Bill 161

HOUSE FILE _____
BY (PROPOSED COMMITTEE ON COMMERCE,
REGULATION AND LABOR BILL BY
CHAIRPERSON JENKINS)

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

A BILL FOR

1 An Act relating to the Iowa long-term care asset disregard
2 incentive program, providing for a repeal, providing a
3 contingent effective date, and providing an appropriation.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
5 TLSB 2276YC 81
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1 1 Section 1. NEW SECTION. 249J.1 DEFINITIONS.
1 2 As used in this chapter, unless the context otherwise
1 3 requires:
1 4 1. "Certified long-term care insurance policy" means a
1 5 long-term care insurance contract that is issued by an insurer
1 6 or other person who complies with section 249J.4.
1 7 2. "Long-term care facility" means a facility licensed
1 8 under chapter 135C or an assisted living program certified
1 9 under chapter 231C.
1 10 3. "Long-term care insurance" means long-term care
1 11 insurance as defined in section 514G.4 and regulated in
1 12 section 514G.7.
1 13 4. "Qualified long-term care services" means qualified
1 14 long-term care services as defined in section 7702B(c) of the
1 15 Internal Revenue Code.
1 16 Sec. 2. NEW SECTION. 249J.2 IOWA LONG-TERM CARE ASSET
1 17 DISREGARD INCENTIVE PROGRAM == ESTABLISHMENT AND
1 18 ADMINISTRATION.
1 19 1. The Iowa long-term care asset disregard incentive
1 20 program is established to do all of the following:
1 21 a. Provide incentives for individuals to insure against
1 22 the costs of providing for their long-term care needs.
1 23 b. Provide a mechanism for individuals to qualify for
1 24 coverage of the costs of their long-term care needs under the
1 25 medical assistance program without first being required to
1 26 substantially exhaust all their resources.
1 27 c. Assist in developing methods for increasing access to
1 28 and the affordability of long-term care insurance.
1 29 d. Alleviate the financial burden on the state's medical
1 30 assistance program by encouraging the pursuit of private
1 31 initiatives.
1 32 2. The insurance division of the department of commerce
1 33 shall administer the program in cooperation with the division
1 34 responsible for medical services within the department of
1 35 human services. Each agency shall take appropriate action to
2 1 maintain the waiver granted by the centers for Medicare and
2 2 Medicaid services of the United States department of health
2 3 and human services under 42 U.S.C. } 1396 relating to
2 4 providing medical assistance under chapter 249A, in effect
2 5 prior to the effective date of this Act.
2 6 Sec. 3. NEW SECTION. 249J.3 ELIGIBILITY.
2 7 An individual who is the beneficiary of a certified long=
2 8 term care insurance policy approved by the insurance division
2 9 is eligible for assistance under the medical assistance
2 10 program using the asset disregard provisions pursuant to
2 11 section 249J.5.
2 12 Sec. 4. NEW SECTION. 249J.4 INSURER REQUIREMENTS.
2 13 1. An insurer or other person who wishes to issue a
2 14 certified long-term care insurance policy meeting the
2 15 requirements of this chapter shall, at a minimum, offer to
2 16 each policyholder or prospective policyholder a policy that
2 17 provides both of the following:

2 18 a. Facility coverage, including but not limited to long=
2 19 term care facility coverage.

2 20 b. Nonfacility coverage, including but not limited to home
2 21 and community-based care coverage.

2 22 2. An insurer or other person who complies with subsection
2 23 1 may also elect to offer a certified long-term care insurance
2 24 policy that provides only facility coverage.

2 25 Sec. 5. NEW SECTION. 249J.5 ASSET DISREGARD ADJUSTMENT.

2 26 1. As used in this section, "asset disregard" means a one
2 27 dollar increase in the amount of assets an individual who
2 28 purchases a certified long-term care insurance policy and
2 29 meets the requirements of section 249J.3 may retain under
2 30 section 249A.35 for each one dollar of benefit paid out under
2 31 the individual's certified long-term care insurance policy for
2 32 qualified long-term care services if the policy meets all of
2 33 the following criteria:

2 34 a. If purchased prior to January 1, 2005, provides
2 35 benefits in an amount equal to at least one hundred thirty
3 1 thousand dollars as computed on January 1, 2005.

3 2 b. If purchased on or after January 1, 2005, provides
3 3 benefits in an amount equal to at least one hundred thirty
3 4 thousand dollars as computed on January 1, 2005, compounded
3 5 annually by at least five percent, or an amount equal to at
3 6 least the minimum face amount specified by the commissioner of
3 7 insurance pursuant to subsection 3, whichever amount is
3 8 greater.

3 9 c. Includes a provision under which the total amount of
3 10 the benefit increases by at least five percent, compounded
3 11 annually.

3 12 2. When the division responsible for medical services
3 13 within the department of human services determines whether an
3 14 individual is eligible for medical assistance under chapter
3 15 249A, the division shall make an asset disregard adjustment
3 16 for any individual who meets the requirements of section
3 17 249J.3. The asset disregard shall be available after benefits
3 18 of the certified long-term care insurance policy have been
3 19 applied to the cost of qualified long-term care services as
3 20 required under this chapter.

3 21 3. Beginning September 1, 2006, or one year after the
3 22 effective date of this Act, whichever is later, the
3 23 commissioner of insurance shall issue a bulletin annually on
3 24 that date, declaring the minimum face amount for policies to
3 25 qualify for the Iowa long-term care asset disregard incentive
3 26 program for the following calendar year. In making this
3 27 determination, the commissioner shall consult with the
3 28 division responsible for collecting data on average nursing
3 29 home costs in Iowa. Additionally, in making this
3 30 determination, the commissioner shall consider the current
3 31 average daily cost for three years of nursing home care and
3 32 other relevant information.

3 33 Sec. 6. NEW SECTION. 249J.6 APPLICATION OF ASSET
3 34 DISREGARD TO DETERMINATION OF INDIVIDUAL'S ASSETS.

3 35 A public program administered by the state that provides
4 1 long-term care services and bases eligibility upon the amount
4 2 of the individual's assets shall apply the asset disregard
4 3 under section 249J.5 in determining the amount of the
4 4 individual's assets.

4 5 Sec. 7. NEW SECTION. 249J.7 PRIOR PROGRAM ==
4 6 DISCONTINUATION OF PROGRAM.

4 7 1. If the Iowa long-term care asset disregard incentive
4 8 program is discontinued, an individual who is covered by a
4 9 certified long-term care insurance policy prior to the date
4 10 the program is discontinued is eligible to continue to receive
4 11 an asset disregard as defined under section 249J.5.

4 12 2. An individual who is covered by a long-term care
4 13 insurance policy under the long-term care asset preservation
4 14 program established pursuant to chapter 249G, Code 2005, on or
4 15 before the effective date of this Act, is eligible to continue
4 16 to receive the asset adjustment as defined under that chapter.

4 17 3. The insurance division shall adopt rules to provide an
4 18 asset disregard to individuals who are covered by a long-term
4 19 care insurance policy prior to the effective date of this Act,
4 20 consistent with the Iowa long-term care asset disregard
4 21 incentive program.

4 22 Sec. 8. NEW SECTION. 249J.8 RECIPROCAL AGREEMENTS TO
4 23 EXTEND ASSET DISREGARD.

4 24 The division responsible for medical services within the
4 25 department of human services may enter into reciprocal
4 26 agreements with other states to extend the asset disregard
4 27 under section 249J.5 to Iowa residents who had purchased or
4 28 were covered by certified long-term care insurance policies in

4 29 other states.
4 30 Sec. 9. NEW SECTION. 249J.9 RULES.
4 31 The department of human services and the insurance division
4 32 of the department of commerce shall adopt rules pursuant to
4 33 chapter 17A as necessary to administer this chapter. The
4 34 insurance division shall consult with representatives of the
4 35 insurance industry in adopting such rules. This delegation of
5 1 rulemaking authority shall be construed narrowly.

5 2 Sec. 10. NEW SECTION. 249A.35 PURCHASE OF CERTIFIED
5 3 LONG-TERM CARE INSURANCE POLICY == COMPUTATION UNDER MEDICAL
5 4 ASSISTANCE PROGRAM.

5 5 A computation for the purposes of determining eligibility
5 6 under this chapter concerning an individual who has purchased
5 7 a certified long-term care insurance policy under chapter 249J
5 8 shall include consideration of the asset disregard provided in
5 9 section 249J.5.

5 10 Sec. 11. Chapter 249G, Code 2005, is repealed.

5 11 Sec. 12. MEDICAID STATE PLAN WAIVERS.

5 12 1. The department shall amend the medical assistance state
5 13 plan to provide that all amounts paid for qualified long-term
5 14 care services under a certified long-term care insurance
5 15 policy shall be considered in determining the amount of the
5 16 asset disregard.

5 17 2. The department of human services shall seek approval of
5 18 a state plan amendment or make application to the United
5 19 States department of health and human services for any waivers
5 20 necessary to implement chapter 249J, as enacted in this Act.

5 21 Sec. 13. CONTINGENT EFFECTIVE DATE == IOWA LONG-TERM CARE
5 22 ASSET DISREGARD INCENTIVE PROGRAM.

5 23 1. This Act shall not take effect until both of the
5 24 following conditions are met:

5 25 a. Funding is specifically appropriated to the insurance
5 26 division of the department of commerce for the purpose of the
5 27 Iowa long-term care asset disregard incentive program. The
5 28 insurance division shall notify the Code editor if such
5 29 appropriation is made.

5 30 b. All necessary Medicaid state plan amendments and
5 31 waivers are approved by the United States department of health
5 32 and human services. The department of human services shall
5 33 notify the Code editor if such approval is received.

5 34 2. If the requirements of subsection 1 are met, the
5 35 program shall begin no sooner than six months following the
6 1 date that both requirements are met.

6 2 Sec. 14. APPROPRIATION. There is appropriated from the
6 3 general fund of the state to the division of insurance of the
6 4 department of commerce for the fiscal year beginning July 1,
6 5 2005, and ending June 30, 2006, the following amount, or so
6 6 much thereof as is necessary, to establish an educational
6 7 program to inform Iowans regarding the Iowa long-term care
6 8 asset disregard incentive program and for up to the following
6 9 full-time equivalent positions:

6 10	\$	300,000
6 11	FTEs	2.00

6 12 EXPLANATION

6 13 This bill establishes an Iowa long-term care asset
6 14 disregard incentive program to provide incentives for
6 15 individuals to insure against the costs of their long-term
6 16 care needs, provide a mechanism for individuals to qualify for
6 17 coverage of the costs of their long-term care needs under the
6 18 medical assistance program without first being required to
6 19 substantially exhaust all their resources, increase access to
6 20 and the affordability of long-term care insurance, and
6 21 alleviate the financial burden on the state's medical
6 22 assistance program by encouraging the pursuit of private
6 23 initiatives. The bill directs the insurance division of the
6 24 department of commerce to administer the program in
6 25 cooperation with the division responsible for medical services
6 26 within the department of human services. The bill directs the
6 27 department of human services and the division of insurance to
6 28 each take appropriate action to maintain the waiver granted by
6 29 the centers for Medicare and Medicaid services of the United
6 30 States department of health and human services under 42 U.S.C.
6 31 } 1396 relating to providing assistance under Code chapter
6 32 249A, in effect prior to the effective date of the bill.

6 33 The bill requires insurers who wish to issue certified
6 34 long-term care insurance policies that meet the requirements
6 35 of the bill to offer, at a minimum, a policy that provides
7 1 both facility coverage and nonfacility coverage. If the
7 2 insurer provides both types of coverage, the insurer may also
7 3 offer a policy that provides only facility coverage.

7 4 Under the bill, an individual who purchases or is covered

7 5 by a certified long-term care insurance policy would be
7 6 allowed an asset disregard under the medical assistance
7 7 program. The asset disregard is a \$1 increase in the amount
7 8 of assets the individual may retain under the medical
7 9 assistance program for each \$1 of benefits paid out under the
7 10 individual's certified long-term care insurance policy for
7 11 qualified long-term care services if the benefits meet minimum
7 12 amounts established in the bill.

7 13 The bill also provides that beginning September 1, 2006, or
7 14 one year after the effective date of the bill, whichever is
7 15 later, the commissioner of insurance is to issue a bulletin on
7 16 September 1 of each year, declaring the minimum face amount
7 17 for policies to qualify for the asset disregard program for
7 18 the following calendar year. In making this determination,
7 19 the commissioner is to consult with the division responsible
7 20 for collecting data on average nursing home costs in Iowa.
7 21 Additionally, in making this determination, the commissioner
7 22 is to consider the current average daily cost for three years
7 23 of nursing home care and other relevant information.

7 24 The bill provides that if the Iowa long-term care asset
7 25 disregard incentive program is discontinued, an individual who
7 26 purchased or is covered under a certified long-term care
7 27 insurance policy prior to the date the program is discontinued
7 28 is eligible to continue to receive an asset disregard under
7 29 the bill. The bill allows an individual participating in the
7 30 asset preservation program existing on the effective date of
7 31 the bill to continue to receive that asset adjustment and
7 32 directs the department to adopt rules to allow an individual
7 33 who purchased long-term care insurance prior to the effective
7 34 date of the bill to receive an asset disregard incentive. The
7 35 bill allows for reciprocal agreements to extend the asset
8 1 disregard program to Iowa residents who have purchased or are
8 2 covered under certified long-term care insurance policies in
8 3 other states.

8 4 The bill authorizes the department of human services and
8 5 the insurance division to adopt rules to administer this new
8 6 Code chapter, but this authority is to be construed narrowly.
8 7 The insurance division is directed to consult with
8 8 representatives of the insurance industry in adopting such
8 9 rules.

8 10 The bill directs the department of human services to amend
8 11 the medical assistance state plan to allow for disregard of
8 12 all amounts paid out under a certified long-term care
8 13 insurance policy and to seek approval of a state plan
8 14 amendment or any waiver necessary from the federal government
8 15 to implement the bill.

8 16 The bill repeals Code chapter 249G, the current long-term
8 17 care asset preservation program.

8 18 The bill provides that the long-term care asset disregard
8 19 incentive program and other provisions of the bill take effect
8 20 only if funds are specifically appropriated to the insurance
8 21 division for that purpose, only if the necessary Medicaid
8 22 state plan amendment and waiver are approved, and then no
8 23 sooner than six months after both of those requirements are
8 24 met.

8 25 The bill appropriates \$300,000 from the general fund of the
8 26 state to the division of insurance of the department of
8 27 commerce for the fiscal year beginning July 1, 2005, and
8 28 ending June 30, 2006, to establish an educational program to
8 29 inform Iowans regarding the Iowa long-term care asset
8 30 disregard incentive program and for up to two full-time
8 31 equivalent positions.

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